

# **INCONSIDERATE PAVEMENT PARKING**

## **Options Paper**

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## **PAVEMENT PARKING**

### **Options Paper**

#### **What is the Problem?**

Many of our streets were not designed to accommodate today's volumes of traffic and vehicle numbers, and at some locations, due to narrow roads and the absence of driveways, some people choose to park on the pavement (footway) rather than obstructing the carriageway (road). However pavements are not designed to be used for this purpose, they are for use by people, not for the parking of vehicles.

While parking on the pavement may appear to help address one problem by helping to keep vehicular traffic moving, it can often create other issues, and at some locations pedestrians are being forced onto the carriageway and into the flow of traffic. This is an issue for all people but especially for those who are blind or partially sighted, for those with mobility difficulties, and also those using prams or buggies.

Footways are also not designed to support the weight of a vehicle and pavement parking can result in damage to the surface, with repairs costs placing an additional financial burden on the public purse. The resulting damage to the pavement can also lead to a trip hazard which can result in personal injury, with compensation paid out on any associated claims further impacting the public purse.

This paper outlines the difficulties caused by pavement parking and sets out possible options for dealing with it. The Department is seeking your views on the issue and on the options suggested, including possibly dealing with vehicles parked across dropped kerbs.

You will be able to provide comment on this options paper until 18 March 2022.

Where possible, response should be made via Citizen Space on the NI Direct website using the following link:

<https://consultations2.nidirect.gov.uk/dfi-1/pavement-parking-consultation>

Other ways to respond are included in the ‘How to Respond’ section at the end of the paper.

## **Background**

Although the term ‘footway’ is used in legislation, the more commonly used term ‘pavement’ is also used in this document to describe the part of a road which is located alongside the carriageway on which there is a public right of way on foot. This is distinct from a ‘footpath’ which is remote from a road.

Rule 244 in the Highway Code NI states: “*DO NOT park partially or wholly on the footway or footpath unless signs permit it. Parking on the footway or footpath can obstruct and seriously inconvenience pedestrians, people in wheelchairs or with visual impairments and people with prams or pushchairs.*” The Department’s road safety and sustainable travel social media channels regularly post reminders about this rule.

The Police Service of Northern Ireland (PSNI) has powers to enforce against a vehicle found to be causing a general obstruction under Regulation 119 of the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999 or found obstructing the access to premises under Article 5c of the Roads (Restriction of Waiting) Order (Northern Ireland) 1982.

With the exception of heavy commercial vehicles (Article 30 of the Road Traffic (Northern Ireland) Order 1995), there is no single piece of legislation that prohibits vehicles from parking on footways; however, where there are parking restrictions, these apply to both the carriageway and footway, and consequently the Department can carry out enforcement action against vehicles parked in contravention of such restrictions.

The Department has powers to introduce footway parking bans. There are a number of locations where the Department has prohibited footway or verge parking in response to localised problems caused by vehicles either being parked on the footway, or causing damage to the verge.

There is also a blanket order which prohibits parking in the following areas for traffic management and road safety reasons:

- i. on a footway adjacent to clearway;
- ii. on a footway adjacent to a controlled area at Zebra, Pelican and Puffin crossings;
- iii. on a central reservation adjacent to a clearway;
- iv. on a cycle track adjacent to a clearway; or
- v. on a verge adjacent to a controlled area at Zebra, Pelican and Puffin crossings.

## **The Position Elsewhere**

### *Scotland*

The Transport (Scotland) Bill 2019 provided the powers to introduce a national ban on pavement and double parking in Scotland to make it easier for local authorities to ensure its pavements and roads are safer and more accessible to all.

The Bill received Royal Assent on 15 November 2019 and it includes three different parking bans:

- i. A pavement parking ban;
- ii. A ban on double parking; and
- iii. A ban on parking across a dropped kerb.

Transport Scotland is currently drafting guidelines for local authorities to use when identifying exempted streets. The local authorities will be given 12 months to review their areas, ahead of the overall Act coming into effect, to identify the streets that are to be exempted by Order under Section 50 of the Act.

### *England*

During 2020 the Department for Transport (DfT) consulted on three possible options for dealing with pavement parking in England, the options were:

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- i. to rely on improvements to the existing Traffic Regulation Order system;
- ii. to allow local authorities with CPE powers to enforce against 'Unnecessary obstruction of the pavement'; or
- iii. to introduce national pavement parking prohibition similar to that in place in London (with the option for exemptions).

The DfT received 15,000 responses to the consultation and has yet to report on the findings.

There has been a blanket ban on pavement parking in London since 1974, although some pavement parking is permitted using marked bays and traffic signs.

The London ban is promoted under three main strands:

- i. to prevent obstruction to pedestrians;
- ii. to prevent damage to the footway, reducing repairs and injuries; and
- iii. to maintain footways as an amenity, as the presence of cars and other vehicles parked on footways, verges and other pedestrian areas is viewed as detrimental to the urban environment.

### *Ireland*

Pavement parking is also prohibited in the Republic of Ireland. In Dublin, it is enforced by An Garda Síochána, and vehicles found partially parked on the footway and causing an obstruction can be clamped. Vehicles parked with all four wheels on the footway are automatically clamped.

### *Wales*

In October 2020 the Welsh Government announced plans to give Councils greater powers to prevent pavement parking by 2022. This approach would be similar to one of the options that was consulted on in England.

Wales has also been giving the matter some detailed consideration with the Wales Pavement Parking Task Force Group, which was set up on the direction of the Deputy Minister for Economy and Transport, reporting on the issue. The group's findings were published in October 2020.

The group rejected adoption of the outright ban being pursued in Scotland, stating that it was '*overly slow and complex*'. Instead they decided to give local authorities the power to fine people for parking on pavements, which they consider can be implemented much quicker.

The current intention is that local authorities would have the power to enforce against vehicles found to be causing an obstruction by July 2022.

Cardiff Council recently initiated an 18-month pilot scheme in City Road. Signs have been installed which show where the zone starts and ends and any vehicle that parks partially or fully on the pavement within the zone will be liable to a £70 Penalty Charge Notice. The scheme is being monitored to see if enforcement addresses the ongoing problems. If deemed successful, similar schemes could be introduced in other areas of the city that are currently experiencing problems with pavement parking.

## **Considerations**

Vehicles parked inconsiderately on footways present real challenges for other road users, and in particular have adverse impacts for blind or partially sighted people and those who have mobility difficulties. While most people are aware of the issues caused, some still choose to park on the pavement, especially if it is outside their home and are likely to be reluctant to change their behaviour if it means parking somewhere less convenient. There needs to be greater recognition that footways are designed for people and should not be used for the parking of vehicles.

Removing vehicles from footways would ensure that space is available for its intended use, which is the safe passage of people.

A ban on footway parking would have clear benefits in terms of facilitating people with mobility issues including those using wheelchairs and walking aids, those with visibility or hearing impairments, along with those using prams and push chairs. It could also encourage more walking and more active lifestyles.

An outright ban on footway parking - either similar to that already in place in London, being introduced in Scotland, or being consulted

on in England - would show a strong commitment to promoting sustainable modes and ensuring that the footway network is both accessible and connected.

Achieving a reduction in damage to footways is another reason for introducing footway parking bans. As well as ensuring smoother surfaces, which are safer for walking and wheelchair users, it could potentially result in a reduction in maintenance costs, personal injuries and the resultant compensation claims and financial settlements.

## **Options**

Three options are under consideration:

*Option 1*- introduce individual bans using the Department's existing powers.

*Option 2*- introduce an outright ban on pavement parking, possibly with some exceptions.

*Option 3*- introduce powers that would allow the Department's Traffic Attendants to enforce against vehicles found to be parked on the pavement and causing an obstruction.

**Option 1** – introduce individual bans using the Department's existing powers.

The Department could make an Order to prohibit footway parking in individual streets where there is evidence of inconsiderate footway parking. Traffic signs would be required to indicate the extent of each individual prohibition.

Associated measures such as making a street one-way may also be required, if it is determined that the pavement parking ban will result in an increase in on-street parking leading to traffic progression issues. Consideration could also be given to managing parking by designating parking places and marking bays where parking is permitted. This could include bays which are partially on the carriageway and partially on the footway (see figure 1), and while this does not remove the footway parking altogether, it helps to keep the remaining space on the footway free to allow people to



pass safely. This approach is widely adopted in London Boroughs where there is an overall ban.

Option 1 would use existing legislative provision and it would seek to address inconsiderate pavement parking. It would be a controlled way of dealing with the issue, targeting those areas where problems are more evident.

Presently there is no formal guidance on how schemes should be selected and this would need to be developed.

Dealing with streets on an individual basis could be a slow process.

**Option 2** – introduce an outright ban on pavement parking, possibly with some exemptions.

This option would be similar to that which has operated in London since 1974 and the approach currently being taken forward in Scotland.

This option would require changes to primary legislation to prohibit pavement parking, except at locations where the Department decides to allow it.

Where pavement parking is to be permitted by exemption, traffic signs and bay markings would be needed to indicate where pavement parking is permitted. This has the potential to add to the proliferation of traffic signs on our streets. The bay could be placed completely on the pavement where there is sufficient width, or 'part on / part off' as shown in Figure 1.

The legislation for both London and Scotland also includes exceptions to the prohibition for certain vehicles including, for example, breakdown or emergency service vehicles; highway maintenance vehicles; utility maintenance vehicles; or where it can be proved that a vehicle had been used for loading and unloading goods (typically for up to 20 minutes).

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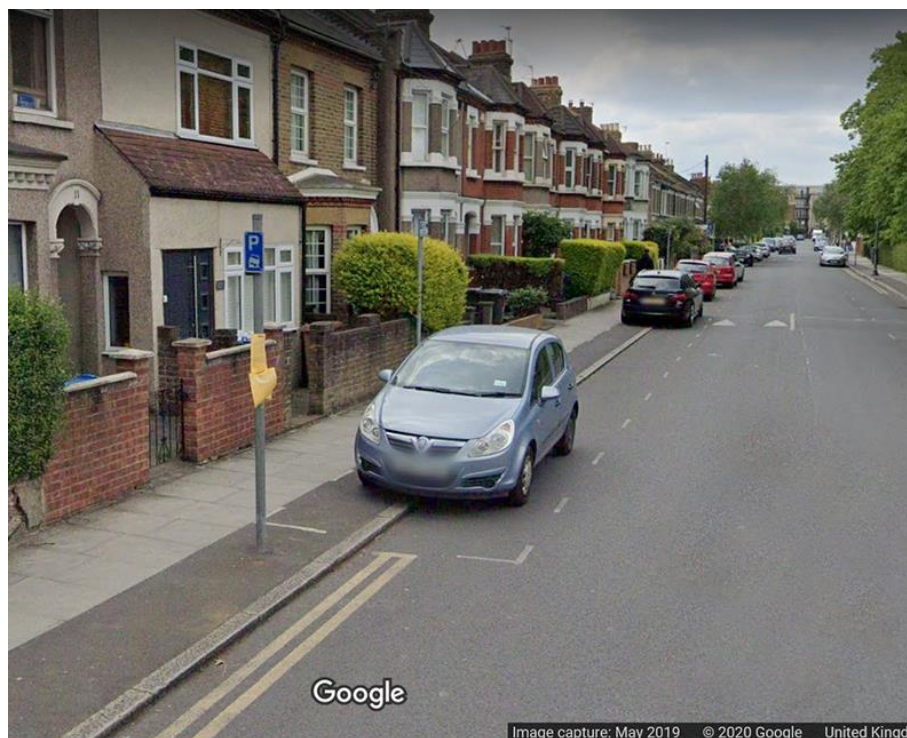


Figure 1 A residential London street which has an exemption from the London-wide pavement parking prohibition. Vehicles can park partially on the pavement within parking bays which are marked on the pavement

This option would establish a general rule against pavement parking, except where there is specific permission for it.

This approach would establish a consistent rule that *'you must not park on a pavement except where signs permit'*. Traffic signs and bay markings would only be needed to show drivers where pavement parking was still allowed.

In many areas pavement parking is possibly still required, so consideration would be needed to determine whether it should continue to be allowed, care would also be needed to ensure that a general ban does not have unintended consequences such as simply displacing parked vehicles to other areas.

It is likely that the introduction of a general prohibition would need a significant implementation period. Time would need to be allowed for the process of identifying and implementing exemptions, along with the production of guidance to identify streets to be exempted. It is not known at this stage how many streets would need to be exempted from a general prohibition in any single town or city.

**Option 3** - introduce powers that would allow the Department's Traffic Attendants to enforce against vehicles found to be parked on the pavement and causing an obstruction.

The offence of unnecessary obstruction of the road already exists; although this is only enforceable by the PSNI as a criminal matter, under Regulation 119 of Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999, which says '*No person in charge of a motor vehicle or trailer shall cause or permit the vehicle to stand on a road so as to cause any unnecessary obstruction of the road*'.

Under this option Traffic Attendants would be able to enforce obstruction as a civil matter, by issuing Penalty Charge Notices (PCNs) to vehicles found to be causing an obstruction of the pavement, without reasonable excuse. This would enable the Department to address inconsiderate obstructive pavement parking, without the need to prohibit pavement parking generally.

It is not proposed to fully decriminalise (meaning completely removing enforcement from the PSNI) as there may be some circumstances where a particularly dangerous obstruction of the pavement is more appropriately dealt with by the police as a criminal matter. Under this option, unnecessary obstruction of the pavement could therefore be enforced by either the PSNI (using a Fixed Penalty Notices (FPN) or by the Department issuing of a PCN). In the unlikely event of two penalties being simultaneously issued to the same vehicle, a Police FPN would take precedence over a PCN issued by a Traffic Attendant (the PCN would need to be cancelled and any payment refunded).

Unnecessary obstruction of the road other than the pavement would remain a matter for the PSNI.

Option 3 could be achieved by removing the 'pavement' from 'road' in Regulation 119 of Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999 [Motor Vehicles \(Construction and Use\) Regulations \(Northern Ireland\) 1999 \(legislation.gov.uk\)](https://www.legislation.gov.uk) - which makes unnecessary obstruction of the road an offence - and adding it to the list of contraventions subject to civil enforcement.

This option would also include exceptions, for example, breakdown or emergency service vehicles; highway maintenance vehicles;

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utility maintenance vehicles; or where it can be proved that a vehicle had been used for loading and unloading goods.

While it is considered necessary to include exemptions for emergencies, and to maintain free-flowing traffic and to facilitate loading and unloading, we do not propose to exempt Blue Badge holders, or any other business need. The aim of the policy is to keep the pavement free of obstruction as far as possible; and we believe that use of other exemptions would undermine this objective.

It is acknowledged that the concept of 'unnecessary obstruction' is inherently vague so guidance will be needed. This would need to be agreed with all key stakeholders and in particular those groups representing people with limited mobility.

Unlike a general ban, an exercise to identify streets to be exempted would not be required, and it would not be necessary to place traffic signs and bay markings to indicate where pavement parking is still permitted. This is particularly relevant in rural areas where pavement parking is less likely to be a problem, and where placing signs to permit it might be regarded as unnecessary and disproportionate.

Enforcement against this offence would be more targeted than through adoption of a general prohibition of pavement parking, however it would be possible to penalise inconsiderate pavement parking.

Currently any parking restrictions enforced by the Department's Traffic Attendants are clearly defined using traffic signs and road markings, for example, yellow lines or white bay markings. By contrast, '*unnecessary obstruction*' will not be marked or signed in the locality and would therefore be more difficult to define. Careful consideration and detailed assessment would be required in each case.

Unlike a general ban under option 2 the message to motorists may not be as clear.

If this option was pursued, guidance would be needed to clarify the definition of an obstruction of the pavement, without reasonable excuse, in order to prevent inconsistent enforcement.

‘Unnecessary obstruction’ does not lend itself to a simple definition that works in all circumstances. It would be almost impossible to anticipate all of the possible real-world circumstances and to prescribe them in regulations. Instead, it is proposed to define the scenarios where pavement parking would, and would not, be deemed appropriate in guidance and our parking protocols which could be updated more quickly than regulations.

These protocols would need to be accompanied by appropriate media messages.

However, it may still not be possible to comprehensively define what we mean by unnecessary obstruction in guidance. It may be relatively easy to define a pavement obstruction but not so easy to define when it is necessary. For example, ‘Obstruction’ could be determined by whether the pavement width between the vehicle and the backline of the pavement is sufficiently wide to not obstruct the passage of a wheelchair user or person with a pram or buggy. Leaving a minimum width of say 1.5m between the parked vehicle and the back edge of the pavement could be deemed to be not causing an obstruction of the pavement. This width is derived from Section 3 of the DfT’s [inclusive mobility guidance](#); it is the absolute minimum required for a wheelchair user and pedestrians to pass one another.

### **Parking Across Dropped Kerbs**

Irrespective of the option chosen to deal with pavement parking, the Department would also propose to explore ways of addressing vehicles parked inconsiderately across kerbs that have been specifically lowered or ‘dropped’ to help people cross the road. This is opposed to kerbs that have been dropped to facilitate vehicular access across the pavement for which the PSNI can already deal with under Article 5c of the Roads (Restriction of Waiting) Order (Northern Ireland) 1982.

Most dropped kerb facilities are found at junctions and existing regulations (the Roads (Restriction of Waiting) Order (Northern Ireland) 1982) makes it an offence to park within 15m of a junction. However the Department’s Traffic Attendants can only enforce these restrictions if the corner has been marked on the ground with double yellow lines, otherwise the PSNI would have to take action.

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Elsewhere and away from junctions, the Department can only act if there is some form of restriction that applies on that part of the road. The PSNI can and does use its power under Regulation 119 of Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999 but this sort of common parking violation could be better dealt with by the Department's Traffic Attendants.

## **Questions**

### **What is your name?**

### **What is your email address?**

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

### **What is your organisation / group?**

Provide name if you are responding on behalf of an organisation / group.

If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

1. Do you think that pavement parking is a problem? **Y/N**
2. Do you think action is necessary to manage pavement parking differently to the current approach? **Y/N**
3. Do you think a general ban on pavement parking is necessary? **Y/N**
4. Do you think that pavement parking would be better handled on a more targeted street-by-street basis? **Y/N**
5. Do you think exceptions could be allowed for pavement parking under specific circumstances? **Y/N**
6. Do you think marking out parking bays that are partially on the pavement would help to manage pavement parking? **Y/N**
7. If in some limited circumstances pavement parking is allowed, how much space should vehicles be allowed to take up?
  - The width of a car
  - Leaving the width of a wheelchair
  - Leaving sufficient width to allow two wheelchairs to pass one another

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- It is too difficult to say as different people have different needs
- It depends on the location

8. Do you think that inconsiderate parking across dropped kerbs is also an issue that needs addressed? **Y/N**

9. In the options paper, three options are proposed, namely:

**Option 1** - introduce individual bans using the Department's existing powers.

**Option 2** – introduce an outright ban on pavement parking, possibly with some exceptions.

**Option 3** – introduce powers that would allow the Department's Traffic Attendants to enforce against vehicles found to be parked on the pavement and causing an obstruction.

Please tell us which option you think would be most suitable to address pavement parking in Northern Ireland?

- Option 1,
- Option 2,
- Option 3,
- None
- Other

Please use the following text box should you wish to provide some reasoning for your choice.

[Text box]

10. If you have any further views, thoughts or input which you would like to share, please detail below

[Text box]



## HOW TO RESPOND

You will be able to provide comment on this options paper until 18 March 2022.

Where possible, response should be made using Citizen Space on the NI Direct website via the following link:

<https://consultations2.nidirect.gov.uk/dfi-1/pavement-parking-consultation>

The Department for Infrastructure has actively considered the needs of people with visual impairments in accessing this options paper.

The text will be made available in full on the Department's website which allows for e-readers (including the most recent versions of JAWS, NVDA and VoiceOver).

The text may be freely downloaded and translated by individuals or organisations for conversion into other accessible formats.

Our accessibility statement at Department's Accessibility Statement gives more information.

Please ensure that your response reaches us before the closing date.

If you would like further copies of this options paper or if you would like alternative or accessible formats (Braille, audio CD, etc.) please contact the Department on 028 90541014.

Responses to the options paper should be made online via Citizen Space as indicated above or, if that is not possible, by e-mailing [RoadsEngineeringServices@infrastructure-ni.gov.uk](mailto:RoadsEngineeringServices@infrastructure-ni.gov.uk) .

If you prefer to provide a written response please post it to:

Traffic & Development Control Policy Branch  
Room 2.11  
Department for Infrastructure  
Clarence Court  
10-18 Adelaide Street

## Belfast BT2 8GB

When responding, please state whether you are responding as an individual or representing the views of an organisation or group. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

### **Confidentiality & Data Protection**

Information contained in your response may be made public by DfI. If you do not want all or part of your response made public, please state this clearly in the response by marking your response as 'CONFIDENTIAL'. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your correspondence will be taken to apply only to information in your response for which confidentiality has been specifically requested.

Information provided in response to this options paper, excluding personal information, may be subject to publication or disclosure in accordance with the access to information regimes (this is primarily the Freedom of Information Act 2000 (FOIA)).

The Department will process your personal data in line with the Department's Privacy Notice. Personal data provided in response to this options paper will not be published.

If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

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As indicated above, the Department will publish a summary of responses following completion of the options paper process. Your response, and all other responses to the options paper, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraph below and it will give you guidance on the legal position about any information given by you in response to this options paper.

The Freedom of Information Act 2000 gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation or an options paper. The Department cannot automatically consider as confidential information supplied to it in response to a consultation or an options paper. However, it does have the responsibility to decide whether any information provided by you in response to this options paper, excluding information about your identity, should be made public or treated as confidential.

### **NEXT STEPS**

The information gathered as a result of this options paper will be considered by the Department and an analysis presented to the Minister for consideration. This process may result in a formal consultation which would include a preferred option to help inform how the Department intends to deal with pavement parking and any legislative change required as a result.