Guidelines

Use of Footways and Verges for Parking
Footway and Verge Parking Policy

Introduction

Most grass verges adjacent to roads form part of the public highway and therefore come under the responsibility of the County Council as traffic authority.

One of the responsibilities of the traffic authority is to keep verges safe and unobstructed, particularly at road junctions where clear visibility for road users is important.

Problems

Parking on verges and footways can cause many problems, including:

- Obstructing vulnerable road users who use the verge or footway
- Obstructing road users entering and leaving properties
- Reducing visibility at junctions
- Causing environmental damage and appears unsightly, particularly during adverse weather

The legal position

It is not an offence in law to park a motor vehicle, other than an HGV, on a grass verge unless it causes an obstruction or a Traffic Regulation Order or a byelaw is in force prohibiting it.

Section 19 of the Road Traffic Act 1988 prohibits parking by HGV's. An HGV means any goods vehicle, which has an operating weight exceeding 7.5 tonnes. A similar prohibition to apply to other motor vehicles was contemplated in the late 1980's but was repealed before it ever came into force.

In light of the above it is a criminal offence to park an HGV on a verge adjacent to a road irrespective of the presence or absence of waiting restrictions and this can be enforced by the police. In areas where a Civil Enforcement Area (CEA) is in force, the offence is decriminalised and can be enforced by the CEA rather than the police.

Obstruction

Whilst there is no blanket prohibition on parking on verges, a particular incident of verge parking may be considered dangerous or obstructive or cause damage and may constitute a criminal offence under one or other of the following statutory provisions:

- Section 28 Town Police Clauses Act 1847 - wilfully causing an obstruction to any public footpath or public thoroughfare.
- Regulation 103 Road Vehicles (Construction and Use) Regulations 1986 - vehicles causing unnecessary obstruction of the road (including verge).
Section 22 Road Traffic Act 1988 - leaving vehicles in a dangerous position on the road (including verge).
Section 137 Highways Act 1980 wilful obstruction of the free passage along a highway.
Section 72 Highways Act 1835 - driving on any footpath or causeway by the side of any road made or set apart for the use or accommodation of foot passengers.
Section 131(1)(c) Highways Act 1980 - deposits anything whatsoever on a highway so it would damage the highway

Allegations concerning any of the above possible offences would be a matter for the police to investigate and enforce, rather than the traffic authority.

Byelaws

A byelaw was made by the County Council in 1956 which makes it an offence to drive or place a vehicle or cause a vehicle to be driven or placed upon any road margin to which the byelaw applied in such a manner as to injure or be likely to injure any turf or any tree, shrub or plant growing thereon.

The byelaw applies to any road margin, which was in or beside a public road and was laid or sown with grass or planted with trees and shrubs and maintained constantly in good order for ornamental purposes and has a sign on it indicating that the byelaw applies.

Whilst the byelaw is still in force, municipal boroughs were excluded and as the verges to which it applies must be maintained constantly for ornamental purposes and have a sign maintained on site, these factors will not apply in many cases.

Traffic Regulation Orders (TROs)

Where waiting restrictions are in place by virtue of a TRO and signs and lines are in place to give lawful effect to the restrictions, these apply to any part of the width of a road. A road for the purposes of the RTRA means "any length of highway or road to which the public has access" and therefore is much broader in its meaning than "carriageway".

Unless otherwise stated in the TRO, the restrictions shown by the kerb side lines and signs (where required) apply to the whole width of the road up to the boundary of the adjacent properties, so this includes the verge.

If parking on the verge is deemed acceptable or appropriate, but needs to be restricted on the carriageway, a TRO can be drafted to exclude the verge so that the restrictions affect only the carriageway. Each case needs to be considered on its merits rather than applying a blanket policy to parking on verges.

Where parking on verges is permitted by exemption to a TRO, this would not override:
• The County Council Byelaw where it is in force and the criteria that the verge be maintained constantly for ornamental purposes and have a sign maintained on site are both met; or

• Powers retained by the police to deal with the criminal offences that may be committed under the various statutory provisions set out above, notwithstanding the difficulties in discharging the evidential burden that an offence has been committed within the meaning of the relevant statutory prohibition.

Enforcement in this regard may not always be a priority but feedback from local communities will be taken into account when considering priorities for enforcement.

The Department of Transport (DfT) has also advised that a ban on verge and footway parking can be implemented via a TRO. The TRO would need appropriate signing which requires authorisation from DfT. This type of scheme would require the TRO process to be followed and take between 40 weeks and 14 months to implement (subject to consultation).

**Process to provide an exemption or implement a scheme to permit verge parking**

The procedure for amending and/or making TROs is set down in statute\(^1\). This requires specific consultation, publication of proposals in local newspapers and specified objection periods. Implementation may be expedited where the traffic authority wish to carry out an "experimental scheme of traffic control" and make and/or amend TROs under Section 9 RTRA 1984. This defers certain elements of the process although the overall timescale and costs to make the experimental TRO permanent are not reduced.

The whole TRO process can take at least 40 weeks and the cost of promoting and advertising the TRO is likely to be in the region of £3,000 - £5,000. The additional cost of providing signing and lining to make the TRO enforceable, together with any other costs for physical measures to prevent verge damage could be significant and will depend on the specific site details.

In view of these costs and the timescales involved, the promotion of a TRO to allow verge parking, where it would otherwise be restricted, is likely to be a low priority unless there were significant casualty reduction benefits to be achieved.

**Bollards/posts**

Bollards/posts and verge marker posts only work where their need is respected. Widespread installation, plus maintenance needs, has significant resource

\(^1\) The Local Authorities’ Traffic Orders (Procedure) (England and Wales) Regulations 1996.
implications for the Council. Verge marker posts may be provided outside properties at the owner’s expense.