

ENFORCEMENT OF DROPPED KERBS WITH WHITE BAR MARKINGS

Cabinet Member	Councillor Keith Burrows
Cabinet Portfolio	Planning, Transportation and Recycling
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Papers with report	Appendix I: Relevant Extracts from 'The Traffic Signs Regulations & General Directions'

1. HEADLINE INFORMATION

Summary	The purpose of this report is to seek approval from Cabinet to take enforcement action in relation to vehicles parked across dropped kerbs marked with white bar markings.
Putting our Residents First	<p>This report supports the following Council objectives of: <i>Our People; Our Built Environment;</i></p> <p>The decisions arising from this report will also contribute to delivering against the Council's strategy for road safety and parking in residential streets.</p>
Financial Cost	Costs are dependent on the volume and success of penalty charge notice appeals, referred to the London Tribunal adjudicator for consideration. These costs will be contained within existing revenue budgets.
Relevant Policy Overview Committee	Residents' and Environmental Services
Ward(s) affected	All

2. RECOMMENDATIONS

That Cabinet:

- 1. Authorises the parking enforcement service to take enforcement action in relation to parking on dropped kerbs which solely serve residential properties marked with a white bar marking, in accordance with The Traffic Signs Regulations and General Directions 2016 and Section 86 of the Traffic Management Act 2004;**
- 2. Delegates to the Deputy Chief Executive Corporate Director Residents Services, in consultation with the Leader of the Council and the Cabinet Member for Planning, Transportation and Recycling, the authority to take all necessary steps, including making changes to current practice and procedures, to facilitate enforcement action.**

Reasons for recommendation

To respond to concerns from residents who wish to see enforcement action by the Council in relation to vehicles parked across dropped kerbs, in particular where these are marked by a white bar marking as prescribed in the Traffic Signs Regulations and General Directions 2016 ("TSRGD").

Alternative options considered / risk management

The Cabinet could decide not to take enforcement action. However, this is not considered to be a viable option given the significant concerns expressed by residents.

Policy Overview Committee comments

None at this stage.

3. INFORMATION

Background information

1. Residents can apply to the Council for a dropped kerb that serves their property (or jointly with another property). Residents usually apply for a dropped kerb to assist their vehicle to access and egress their driveway from the carriageway.
2. At the time of applying for a dropped kerb, the Council will advise residents that they can also apply for a white bar marking although this is not compulsory. A one-off fee of £135 is charged for a white bar marking which covers the cost of materials, site visits, assessment and a commuted sum to contribute towards future maintenance. The charge is waived if the applicant is a registered disabled person.
3. The TSRGD provides for the possibility of a white bar marking extending to either end of a dropped kerb. The layout of this marking is illustrated in Appendix I to this report.
4. This white bar marking is intended to provide an indication of the presence of a place where parking should not occur.
5. The Council also offers a 'registration for enforcement' service to residents who suffer from inconsiderate parking across their single dropped kerbs. Parking Enforcement Officers cannot undertake any action unless the resident has registered their single dropped kerb. A resident can register their single dropped kerb by making contact with the Council's Parking Enforcement Team via the Contact Centre or on-line application form. This service is free of charge. Shared dropped kerbs do not need to be registered for enforcement.

Parking Enforcement - current practice

6. Council guidance currently states that '*vehicles must not park on the carriageway (road) adjacent to the footway, cycle track or verge that has been lowered*' It goes on to say that '*the offending vehicle does not have to be fully obstructing the dropped kerb to be committing a parking contravention. For the contravention to occur, the offending vehicle must be physically over (with any part of the vehicle) the point where the regular kerb*

meets the dropped kerb or where the regular kerb starts sloping down towards the dropped kerb (also known as taper)'.

7. There are approximately 380 roads in the Borough where the Council has suspended enforcement of footway parking. The result of this is that the parking enforcement service will not issue Penalty Charge Notices ("PCNs") if vehicles are parked wholly or partly on dropped kerbs serving residential properties in these roads. This is despite the fact that a resident may have incurred the cost of a white bar marking.
8. There have been an increasing number of incidents on these roads where vehicles are parking on dropped kerbs flagrantly ignoring the white bar marking which clearly indicates that parking should not take place. This can cause considerable difficulties and inconvenience and put vulnerable residents at risk.

Parking enforcement - proposed practice

1. It is proposed that this practice is changed in order to address this problem and allow enforcement action to be taken against parking across dropped kerbs in these roads.
2. Section 86 of the Traffic Management Act 2004 (TMA 2004) states that in a special enforcement area, a vehicle must not be parked on the carriageway adjacent to a footway where the footway has been lowered to meet the level of the carriageway for the purpose of assisting vehicles entering or leaving the carriageway across the footway.
3. The Borough is a special enforcement area for the purposes of section 86 TMA 2004.
4. The parking enforcement service will issue PCNs to vehicles parked across dropped kerbs that serve residential properties with a white bar marking in roads where the Council has previously suspended enforcement of footway parking subject to the following provisos in respect of single dropped kerbs:
 - a. The single dropped kerb will also have to be registered for enforcement before a PCN can be served;
 - b. The parking enforcement service will not take action against parking on a single dropped kerb unless requested to do so by the occupier of the premises.
5. Enforcement action under section 86 TMA 2004 cannot be taken in certain circumstances including but not limited to where the vehicle is being used for fire brigade, ambulance or police purposes.
6. If Cabinet approves the recommendations in the report, the parking enforcement service will be authorised to take enforcement action against parking on all dropped kerbs with white bar markings which solely serve residential properties under section 86 of the Traffic Management Act 2004 ("TMA 2004").

Appeal

There is a right of appeal to the London Tribunal on receipt of a PCN. On hearing an appeal, an adjudicator has the power to allow or refuse the appeal.

Financial Implications

The introduction of enforcement of dropped kerbs where there is a white bar marking will not result in any additional expenditure. Enforcement officers would undertake this additional work as part of their duties. However, each appeal considered by an Adjudicator at London Tribunals will result in an additional charge of £29.90. Costs to the Council will be closely monitored and are dependent on the volume and success of appeals. It is expected that costs will be contained within existing revenue budget.

4. EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

The recommendations in this report will allow the parking enforcement service to issue PCNs to vehicles parked across dropped kerbs that solely serve residential properties marked with a white bar marking in roads where the Council has previously suspended enforcement of footway parking.

Consultation Carried Out or Required

Consultation with residents has not been undertaken on the basis that Section 86 TMA 2004 does not require it.

5. CORPORATE IMPLICATIONS

Corporate Finance

Corporate Finance has reviewed the report and concur with the financial implications set out above, noting that a further report will be produced setting out the authority to take all necessary steps, including making changes to current practice and procedures, to facilitate enforcement action which needs to ensure any such action can be contained within the existing revenue budgets .

Legal

The legal implications are contained in the body of the report.

Corporate Property and Construction

None

6. BACKGROUND PAPERS

Traffic Management Act 2004
The Traffic Signs Manual 2003

APPENDIX I: EXTRACT FROM THE TRAFFIC SIGNS REGULATIONS AND GENERAL DIRECTIONS 2016

Sign table — Schedule 11, Part 4

(1) Item	(2) Description and diagram	(3) Permitted or required variants in Part 5	(4) Requirements applicable in Part 6
17	<p>Diagram 1026.1</p> <p>Part of the carriageway outside a vehicular entrance to adjacent premises or a private drive, or where the kerb is dropped to provide a convenient crossing place for pedestrians, which should be kept clear of waiting vehicles</p> 		