

**INFRASTRUCTURE, HOUSING AND ECONOMIC DEVELOPMENT COMMITTEE -
8 NOVEMBER 2019**

PART I - DELEGATED

**6. VERGE PARKING MANAGEMENT CRITERIA
(CED)**

1.1 Summary

1.2 This report sets out proposed amendments to the Parking Bay Prioritisation Procedure that was updated in 2017, from the original procedure agreed by the Sustainable Development, Planning and Transport Committee in November 2014.

1.3 The programme is agreed annually by this Committee and comprises a completion of projects derived from the highest scoring requests, to ensure a balanced programme with due regard for available resources. The current procedure does not effectively specify what types of parking will be provided, in what circumstances, whether it will be designated for specific users, or how it will be controlled.

1.4 This report addresses these four issues and makes the following recommendations:

1.4.1 Land ownership: whether this programme focusses upon improving TRDC estate or also looks at improving HCC-maintained public roads. The report recommends that TRDC estate schemes take priority and proposals are only considered on HCC land if HCC commit to fund 75% of the full cost.

1.4.2 Programme scope: whether this programme continues to focus on hardening verges or is expanded to include building new car parks on amenity greens. The report recommends that amenity areas should not be converted to car parks (but if required, should be subject of a separate programme to introduce new car parks).

1.4.3 Control of off-street parking areas on TRDC estate: a key current problem is the protection and enforcement of these locations; this report recommends that every verge hardening location programme must be controlled by a TRO.

1.4.4 Use of informal parking areas: This report recommends that parking areas on TRDC estate will not be designated for the benefit of private persons or bodies

2 Details

2.1 The Council implements an annual programme to harden grassed verges to protect them in areas experiencing parking congestion. Schemes are typically requested by residents who find it difficult to park near their own home where parking is inadequate due to limited off road parking or because a large proportion of spaces are taken up by other road users.

2.2 These areas include the grassed areas on the verge of public roads, on land owned by the District Council or on land owned by other public bodies such as Housing Associations. Some schemes are progressed jointly with the Local Highway Authority, Hertfordshire County Council '(the LHA)'. Some consents may be required such as planning or highways consents, or agreements with land owners.

2.3 This 'Parking Bays' programme, now renamed the Verge Hardening programme to avoid confusion with the other parking programmes (which sometimes promote

marked on-street parking bays), was revised in 2014 and the criteria updated in 2017.

Current criteria

- 2.4 The criteria as revised in 2017 (and reasoning behind each criteria) are set out in Table 1 below. Those schemes with the highest scores are completed first, but if there are several schemes with matching scores, then the date the request was received will determine the order they are completed. Date order will only be used when there are matching scores. Some schemes have historically been prioritised because they were more easily deliverable, for example where there is joint funding from the LHA available in that year.

Table 1: General scoring of requests		
Ref.	Description	Score
A	Request of scheme by each resident including petitions	+ up to 5
	One point for each resident for a scheme request is the simplest method of scoring. The maximum score that can be received is 5 in order to ensure larger residential areas are not given higher weighting priority. Should the request be via a petition from residents the score shall automatically be given the maximum of 5 points.	
B	For each Ward Cllr making/supporting the request	+ up to 3
	To allow Councillors to effectively support residents in cases of particular interest to them, and to allow them to lend more or less support depending on their view.	
C	If a request is made by the Police	+2
	To ensure greater weight is given to the concerns of expert and responsible bodies than to unqualified members of the public	
D	If a request is made by Hertfordshire County Council, as a result of highway improvements/alterations	+2
	To ensure greater weight is given to the concerns of expert and responsible bodies than to unqualified members of the public	
E	Adjustment based on Officers' judgement	+/- up to 2
	To allow the scoring of items to be weighted by expert opinion (where this discretion is used, it is expected that a justification will be given).	
F	Ease of scheme deliverability	+1/+2/+3
	To ensure that priority is given to schemes to install bays that can be effectively delivered where, for example, it is known that significant legal or	

practical obstacles do not exist.

2.5 Four issues have been identified relating to the current procedure:

- Issue 1 – Criterion ‘D’: whether to prioritise parking on TRDC land
- Issue 2 - Programme scope: hardening verges or building new car parks: Requests are increasingly received for larger areas to be fully converted from grassed areas to create small car parks under this budget but the current procedure does not address such requests; nor does the current budget allow for the full construction of car parks, which would require consideration of drainage, lighting and other more significant measures than are usually provided. The existing larger parking areas are uncontrolled and subject to various forms of abuse, which is causing harm to local communities and affecting resources.
- Issue 3 - Control of use of off-street parking areas on TRDC estate: The existing hardened informal parking areas are not controlled, but experience various problems that are frequently reported and are difficult to address due to the lack of formal controls.
- Issue 4 – Designated public use of new hardstanding created by this programme: The intended use of the hardstanding should be clarified to avoid misuse and to inform the type, scope and detail of controls introduced to address Issue 3.

Programme background and current issues

2.6 The programme had originally been designated to create hardened areas for parking on soft verges; predominantly it appears in South Oxhey, where the narrow carriageways of many of the cul-de-sac had been adopted as highway maintainable at public expense by Hertfordshire County Council. South Oxhey is different to many other locations in that many of the verges (and other land) that do not form part of the adopted highway are still owned by TRDC.

2.7 This means that, unusually, these areas where parking problems very commonly arise cannot be dealt with under legislation intended to control the highway. As a result, options to address parking problems that are available include

- Legal controls (such as byelaws, Traffic Orders or other options that have been used such as anti-social behaviour controls)
- Physical measures to restrict parking (posts, kerbs or knee-railing)
- Physical measures (such as verge hardening) that protect verges and other land while enabling parking

2.8 The programme had been extended under the partnership with Hertfordshire County Council which ended in 2011, to include proposals on roads around the district including verges on adopted highway. These verges are under the control of the County Council which allocates its own budgets towards highway improvements like this.

2.9 For clarity, the District Council’s Parking Agency function delegated from Hertfordshire County Council does not include authority (nor any duty nor

requirement) to make any physical changes to the adopted highway. Any such changes by the District Council therefore require it to seek approvals, to fully fund these schemes and commit to maintenance and future renewal. As a result of the costs of these approvals (in a test case, the cost of the legal agreement with the County Council for works to improve its own asset by introducing a parking layby, were estimated at £5,000), the District Council is working on a new agency agreement that would preclude some of these costs.

- 2.10 Parking on publicly-owned land is increasingly significant in terms of reports, problems and resources. On TRDC estate, this is addressed through a combination of the legal and physical controls set out in section 2.5 above. There is however little coordination between the several work streams introducing new parking bays, new parking prevention measures and new legal controls on parking, which this report seeks to address at section 2.22 below.

Issue 1 - Land ownership: improving TRDC estate or public roads

- 2.11 Hertfordshire County Council controls its assets on public roads. There are few strong reasons for TRDC to invest in improving parking on those assets.
- 2.12 Historically, the County Council formerly jointly funded these and other highway schemes under the funding allocated by the Joint Working Party, but with the end of that partnership with TRDC in 2011, those budgets have been reallocated as Locality budgets which are allocated by local County Councillors. These budgets are used only on adopted highway, an asset controlled by the County Council.
- 2.13 It is therefore proposed that the corresponding budgets held by TRDC are used for similar purposes only on TRDC estate. It is difficult to justify use of TRDC budgets on assets controlled by another body unless there is an exceptional rationale.
- 2.14 This sort of exception can be made, as for example in South Oxhey at Woodhall Lane in 2017, where a scheme jointly between HCC and TRDC improved land on a site both owned partly by TRDC and partly by HCC.
- 2.15 It is proposed that criterion D is amended to prioritise proposals on TRDC estate, replacing the wording with “where HCC proposes a joint scheme and commits to contributing 75% (or a similar figure) of the final total cost of the scheme”. This does not preclude the possibility that TRDC funding could be used towards hardening verges on highway adopted by HCC, but it would focus funding on TRDC assets.
- 2.16 This would result in the following adjustments to Table 1 (in section 2.4 above):

Table 1

D	If a request is made by Hertfordshire County Council, as a result of highway improvements/alterations	+2
I S	To ensure greater weight is given to the concerns of expert and responsible bodies than to unqualified members of the public.	

Issue 2 – Programme scope: hardening verges or building new car parks

- 2.17 There are significant differences between the intention of hardening narrow verges to enable full- or part- footway parking; and replacing the larger part of amenity greens with hard surface for use as a new car park.
- 2.18 It is recommended that, should Members wish to completely replace grassed amenity green with car parking facilities, this is made the subject of a work stream separate to this verge hardening programme, as it involves much wider considerations and requirements.
- 2.19 Hardening verges can be achieved with minimal impact. Converting grassed areas can result in visual harm and reduces the overall quantity of green space around residential areas, which has potential to cause various social and environmental impacts upon residents and the general public. Historically small areas of amenity greens had been used for parking bays, but more recently several schemes have converted much larger areas, using the whole grassed area in the centre of some cul-de-sac.
- 2.20 These impacts include:
- Increased space where cars can be parked (amounting to off-street car parking, which is controlled automatically by the Road Traffic Act 1984, s.32)
 - Reduced amenity area for community uses (largely children, pets and street parties)
 - Cost commitments by the District Council (everyday maintenance, liability issues, future replacement, possible NNDR)
 - Enforcement commitments on the District Council (the need to protect each parking area from unauthorised commercial and personal use; and from legal claims to title)
 - Public expectations (once provided, the public will expect the Council to maintain and manage these areas)
- 2.21 Additional costs must be considered where creating new car parks as this will involve the costs of maintenance (which are increased as drainage and lighting must be considered) and NNDR. Based on recent schemes, each grasscrete bay is costing around £1200 to install, with a life expectancy of anything from 10 to 20 years.
- 2.22 Off-street car parks attract rating for NNDR ('business rates'), even where parking is provided for free; the rating is set by the Valuation Office which has confirmed that the rating is based on factors including 'income potential' rather than actual income. As the Council does not keep over 90% of NNDR collected, this is a significant extra cost (based on £250 per bay, per year, depending on how each location is rated) and there is no revenue budget associated with this work stream.
- 2.23 There are numerous other considerations that would need to be addressed if off-street car parks are to be created; but at present this has been avoided by not promoting the verge hardening as intended for off-street car parking but rather protection for the verges, which we are advised by the Valuation Office are unlikely to be subject to NNDR.
- 2.24 Due to the increased impact, actual and potential cost and complexity of providing car parking areas, it is proposed that only areas clearly defined as verge, where parallel parking or echelon parking can take place, are included in the programme; and that the criteria are enhanced to exclude any grassed area over 5 metres (one

car length) from the kerb-edge of the nearest public road (adopted highway maintainable at public expense).

Issue 3 - Control of Off-street parking areas on TRDC estate

- 2.25 The existing hardened parking areas experience various problems that are frequently reported and are difficult to address due to the lack of formal controls on these areas. Issues include use of bays for commercial storage or regular parking of commercial vehicles; trading, car repairs, dangerous or inconsiderate parking, long-term storage of personal vehicles and claims of private rights accrued by use of bays. These issues cause resource-intensive unnecessary work for the Council's Regulatory, Environmental Protection and Property Services.
- 2.26 Misuse of the parking areas is exacerbated by the lack of clarity on what restrictions apply to these bays and because there is no clear enforceable control that can be used. As these are on private TRDC estate and not on highway, it is essential that some form of expectations are set out in some form to set enforceable terms and conditions of use, to protect the Council's position as land owner and role in providing public parking opportunities.
- 2.27 The control mechanisms set out in section 2.5 above are used on a case-by-case basis to facilitate, prevent or seek to control parking through provision of parking areas, installation of physical barriers to parking, or legal orders (typically Traffic Orders, byelaws or anti-social behaviour controls, respectively).
- 2.28 There is potential for conflict in the decision whether to facilitate parking or to prevent it and there is no consistent procedure to demonstrate which is preferable. It is proposed that requests for new parking prevention measures are combined with this verge hardening programme, which would then be managed by the appropriate Service (either Property or Regulatory) to prevent this.
- 2.29 Where parking areas are created, legal controls must be introduced to ensure:
- That no private interest in the land can be created, for example by a person repeatedly parking their car in the same place over time;
 - That the area is used only for parking appropriate classes of vehicle that are safe and which can be controlled if necessary.
- 2.30 These controls can take the form of a byelaw or Traffic Order. A Traffic Order takes longer and is more resource-intensive to introduce but is relatively easy and less resource-intensive to enforce. Byelaws also take time to introduce but are also more difficult to enforce in some respects, requiring criminal investigation, with currently no dedicated enforcement officers.
- 2.31 Some other legal controls are available for specific circumstances; for example, the Council's legal team advises that untaxed vehicles can be removed, as can uninsured vehicles. Issues such as the operation of a business from parking bays would require more resource; and each of these methods requires robust legal action, with associated resource costs that can be avoided using Traffic Orders, which are the standard traffic management method available through the Civil Enforcement regime.
- 2.32 A further risk with specialist legal enforcement methods available to land owners or local authorities generally is that expectations may not be made clear, risking

negative publicity for the Council if the public are not necessarily aware of any limitations on the use of the bays.

- 2.33 This can be overcome using signage (which would be required for a Traffic Order), which is essential to every parking area simply to provide a defence against any claims of possessory rights, but could also clarify specifically what the bays may be used for.
- 2.34 It is therefore proposed that all such bays and informal parking areas are treated with off-street parking place Traffic Orders to control the parking and other activities that are likely to occur in these locations. There will be a cost implication of this work which needs to be considered as part of the wider proposals.
- 2.35 It is proposed that each of these bays, which were created for public use, is protected for the use of the general public, for appropriate vehicles (for example non-commercial vehicles of appropriate size and weight). This would have the effect that specific bays are not allocated to individuals or organisations, for example for personal use of the bay due to provision of a legal crossover through the parking bay area, precluding use of the affected bay by the public. This would provide a simple control over the use of this hardstanding.

Issue 4 – Use of informal parking areas

- 2.36 This work stream exists to address limited existing public parking capacity, mainly in residential areas. The primary purpose of this programme is to create public parking capacity, so the use of these areas of District Council-owned land for private benefit cannot be justified under this programme.
- 2.37 It is proposed therefore to replicate the legal situation on publicly maintainable highways land (where only public benefit is delivered rather than private benefit) anywhere on TRDC land where parking areas or hardstanding for parking are provided (such as for private parking bays or crossovers).

3 Options and Reasons for Recommendations

- 3.1 The options and reasons are as discussed in the above narrative.

4 Policy/Budget Reference and Implications

- 4.1 The recommendations in this report affect only current practice so do not affect any Financial, Legal, Equal Opportunities, Staffing, Environmental, Community Safety, Public Health, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications

5 Recommendations

That:

- 5.1 As set out in section 2.16, criterion D is amended to prioritise proposals on TRDC estate, replacing the wording with “where HCC proposes a joint scheme and commits to contributing 75% (or a similar figure) of the final total cost of the scheme”.
- 5.2 As set out in section 2.17-2.24, only areas clearly defined as verge, where parallel parking or echelon parking can take place, are included in the programme; and

- 5.3 As set out in section 2.17-2.24, the criteria are enhanced to exclude any grassed amenity green over 5 metres (one car-length) from the kerb-edge of the nearest public road (adopted highway maintainable at public expense); **or**
- 5.3.1 As set out in section 2.17-2.24, should Members prefer to continue to replace significant areas of grassed amenity green with car parking facilities, that any relevant proposals are made the subject of a work stream that is separate to this verge hardening programme.
- 5.4 As set out in section 2.33, all such bays and informal parking areas on TRDC land are required to be treated with relevant Orders under the Road Traffic Regulation Act to control parking and other activities at these locations.
- 5.5 As set out in section 2.36 to 2.37, parking areas on TRDC estate will not be designated for the benefit of private persons or bodies.

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Data Quality

Data sources: Internal documents

Data checked by: Peter Simons, Senior Transport Planner, Regulatory Services

Data rating

1	Poor	
2	Sufficient	y
3	High	

Background Papers

None.

APPENDICES / ATTACHMENTS

None.