

Report of Protection of Grass Verges Task Group

## **Protection of Grass Verges Scrutiny Review Interim Report**

### **Summary**

1. This report presents information in support of the objectives of the review remit for the Protection of Grass Verges Scrutiny Review and asks the Economic Development & Transport Policy & Scrutiny Committee (EDAT) to agree what, if any, further information is required to conclude this review .

### **Background**

2. At an EDAT meeting in March 2016, Members received a scrutiny topic proposal submitted by Cllr Fenton around concerns about damage being done by motor vehicles to grass verges across the city.
3. The Committee received a briefing paper on this issue and noted that verge parking can cause a number of problems, such as obstruction to the highway and damage to the verge. The issue is enforced by a variety of different bodies including the Council (e.g. Highway Maintenance, Network Management) and the Police. It was also noted that additional funding and resources would need to be identified against other Council priorities if a significant reduction in verge parking is required to be made.
4. Members agreed that the damage to grass verges is an issue which is widespread in the city and that it would be useful to carry out a scrutiny review. The Committee appointed a Task Group comprising Cllrs Warters, Myers, Fenton and Kramm to carry out this work on their behalf.
5. The Task Group met for the first time in late March 2016 and agreed the following draft remit:

## Aim

How City of York Council can work in partnership with residents to improve and protect the condition of grass verges from damage caused by motor vehicles.

## Objectives

- i. Understand the Council's current policies and procedures in relation to the management of grass verges and to what extent they are enforced.
- ii. Look at schemes that have been successfully used elsewhere and examine whether they can be introduced in York.
- iii. To better understand the reasons why people park on grass verges. (To hear from people who do park on grass verges and not just those who complain.)
- iv. To understand what consideration is given to car parking when planning applications are agreed, to include new built, extensions and conversions.
- v. To examine whether parking provision in the local plan is still effective and appropriate.
- vi. Assess what can be legally done in the most practical and cost-effective way to protect grass verges from the damage caused by motor vehicles.

## **Information gathered**

### Current Position

6. Roadside verges lie between the carriageway and the footway (or carriageway and highway boundary where no footway is provided) and are intended primarily for amenity purposes.
7. In respect of Objective (i) the following information was provided in the briefing paper to Members.
  - i. Obstruction of the highway can only be enforced by the police unless parking restrictions are in place when the Council may be able to enforce. The police have full discretion as to how they would chose to deal with any allegation. However, enforcement may not be

a high priority for police, unless an actual or obvious real danger is being caused, at the time, to the travelling public.

- ii. 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 regulation 1986 – vehicle 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.
- iii. Damage to verges can be recharged to the owner of a particular vehicle but only if it can be proved that the vehicle caused the particular area of damage. This can be difficult to confirm. The Council has an enforcement process in place using the highway inspectors but success has been limited in the past. Where parking has caused road safety or traffic capacity concerns or impacts on bus services, capital funding may be used to resolve the issue at isolated locations.

#### Current Council Process

8. When an inspector visits a site following a complaint or a routine inspection determines that damage to the grass verge is being caused by parked vehicles, a letter is sent to the occupier of the property adjacent to the verge. The letter brings to their attention the damage and states it is against the law to do so and the Council may claim cost associated with repairing the verge.
9. If the damage persists and on a second visit the inspector identifies a vehicle parked on the verge, their registration number is recorded and a

request is made to the Driver and Vehicle Licensing Agency (DVLA) to discover the owner of the vehicle. The council have the rights to ask the DVLA for details of vehicle owners that damage the highway and to make a claim for repair against them. If the records show that the owner of the vehicle is indeed the property owner the same letter is sent in person directly to emphasise the issue.

10. If there is no action on the third visit then a second letter is sent indicating that a prosecution will be considered and that an approved vehicular crossing where appropriate should be considered and that action may be considered under the Highways Act to construct a crossing on their behalf and charge for the works. This letter is very rarely sent and needs evidence of persistent damage occurring.

### Police Position

11. While there is no blanket prohibition on parking on verges, allegations concerning any of the possible offences detailed in paragraph 6 (ii) would be a matter for the police to investigate and enforce, rather than the highways authority.
12. However, all these offences are subjective and would be particularly difficult to prove in a 30mph street lit area, would require action / statements from the Local Traffic Authority (to prove the damage, nuisance, etc), the driver / registered keeper to be traced and interviewed and a file submitted to Crown Prosecution Service who would have to weigh up whether it would be in the public's interest to proceed to court. It may be viewed that this is top heavy and a questionable use of resources. It would also not be a priority for North Yorkshire Police.

### Yellow Line Restrictions

13. Where there are double or single yellow lines on a carriageway (no waiting at any time and no waiting during the times specified on the signs respectively) the prohibition of waiting extends from the centre of the carriageway to the highway boundary. Hence, this would include any verge or footway that forms part of the highway. These restrictions are most commonly found in built up areas.
14. For "no waiting at any time" restrictions only double yellow lines are required on the carriageway, signs are not needed because the lines mean the same everywhere. For single yellow lines, signs are required to

spell out the times and days of operation. The signs have to be within 15m of the start and end of the restriction and then every 60m.

### Sign Only Restrictions

15. There are some circumstances where it is required to prohibit waiting on the verge or footway but not the main carriageway (most likely on rural roads). In this instance there are no road markings but there has to be a sign at either end of the restricted area plus a repeater sign every 30m.

### Traffic Regulation Order (TRO) Process

16. Both yellow line and sign only restrictions must only be used to indicate the effect of a Traffic Regulation Order (TRO).
17. To progress a TRO for a single item costs in the region of £1,500 for the necessary press advertising. There are also costs for officer and elected member time considering and approving the proposal and then considering any formal objections made. Implementations of any proposal that get through the legal process also have a cost implication, which obviously varies depending on the scale of the scheme. Considering these issues typically takes 6 to 9 months from start to finish.
18. Each subsequent item for advertising after the initial item at £1,500 would add around £200 to the cost. Hence, by considering similar item together in batches considerable cost savings can be achieved due to reduced advertising costs. For this reason most requests for restrictions made throughout the year are tackled in an annual review. The downside of this is that for some items the timescale for considering a request and taking it through to completion can take 12 months or more.
19. However, it is not possible to do a blanket TRO for a small area or covering the whole City and then just implement sections as and when problems occur.

### Bollards

20. There is no requirement for a legal process or consultation to take place before implementing a scheme of bollards to prevent the verge or footway areas being used for parking on. However, there are drawbacks to using bollards, for example:

- There is no budget set aside for installing bollards
- Each bollard costs in the region of £150 to £200 to purchase and install
- The bollards themselves become an additional maintenance burden
- Bollards increase the time taken to maintain the verge
- It can require many bollards to secure an area from being used by small vehicles
- They are considered an unacceptable visual intrusion by some
- On the footway bollards are a permanent inconvenience to the blind, partially sighted and those with mobility scooters / wheelchairs
- Could result in skips being placed in the carriageway (obstructing vehicles) instead of on a verge
- Can end up being used for attaching other items potentially causing an obstruction to drivers / pedestrians.

#### Objective (ii)

21. The problem of damage to grass verges is one faced by council's throughout the country. To better understand potential solutions the Task Group agreed to examine scheme that have been used elsewhere and whether they can be successfully introduced in York. However, scrutiny of these policies did not reveal any new approaches that could be easily adopted here.
22. A range of preventative measures have been considered by various councils, including:
  - Bollards
  - Timber posts
  - Tree planting

- Bylaws
- Traffic Regulation Orders
- Converting grass verges to a hard surface
- Providing additional parking spaces
- Allow verge parking and strengthen verges
- Allow verge parking and undertake periodic repairs

23. Various councils noted that it is not an offence in law to park a motor vehicle, other than a Heavy Goods Vehicle (exceeding 7.5 tonnes), on a grass verge unless it causes an obstruction or a Traffic Regulation Order or bylaw is in force prohibiting it.
24. The Task Group was made aware that a highway authority can ban parking in a specific area by way of a Traffic Regulation Order made under Parts I and IV of the Road Traffic Regulation Act 1984, as amended.
25. Section 2 of the 1984 Act sets out what TROs may be used for and it includes almost anything prohibiting, restricting or regulating the use of a road by traffic or pedestrians, including parking.
26. There are three types of TRO: permanent, experimental and temporary. While permanent TROs require a lengthy consultation process, experimental orders, as precursors to permanent orders, can be implemented more easily and quickly.
27. Recently there have been campaigns to introduce a complete civil ban on pavement parking, including grass verges, enforceable by local authorities. Pavement parking causes an obstruction to pedestrians and particular difficulties for blind and partially-sighted people, wheelchair and mobility scooter users and those with pushchairs and prams.
28. This has led to a number of Private Members' Bills being introduced in Parliament to provide to some degree wider control over pavement parking. The most recent of these was Simon Hoare's Pavement Parking (Protection of Vulnerable Pedestrians) Bill 2015-16, which was debated in the House of Commons in December 2015. The Bill provided a framework for local authorities to consult on and subsequently ban pavement parking across wide areas.

29. However, at the end of the debate Mr Hoare withdrew his Bill, having secured from the Minister a commitment to convene a round table in 2016 to discuss footway parking issues, and to undertake some work to “examine more closely the legal and financial implications of an alternative regime, and the likely impacts on local authorities”.
30. Some residents may take their own measures to prevent parking on verges (often plant-pot shaped concrete blocks or painted rocks). Although these can be aesthetically pleasing, it is an offence to place unlawful items on the public highway. If seen or reported, the highways authority has the right to request that the items are removed. Failing this, they can have the items removed and recover the cost of removal from the owner.
31. If someone is injured or damages their vehicle on these rocks legal action can be taken.
32. The Task Group noted that some Parish Councils in York had placed planters on verges to prevent cars parking on them. However, such preventative measures should be licensed and carried out by a body which accepts responsibility for them and their maintenance. It is not an option available to individuals.
33. In London, parking on the footway or verge is unlawful unless authorised by a resolution of the local authority under section 15(4) of the Greater London Council (General Powers) Act 1974 and indicated by the appropriate signs and markings. Elsewhere, Traffic Regulation Orders are required to prohibit verge and footway parking.
34. There has been a recent national press report suggesting that Ministers / Department for Transport are considering extending the London ban on pavement parking to the rest of the country.

#### Objective (iii)

35. At the Task Group in March 2016 Cllr Fenton reported that after an article in the York Press on the review of damage to grass verges, which included his council email address, he had to date received 65 emails from residents.
36. It was agreed that Cllr Fenton collect and collate emails and other responses from residents to form a fuller picture of the extent of the problem (Annex A). This was to include the views of people who do park on grass verges and not just those who complain.



37. It was stressed that the review is not a witch hunt against residents who park on the grass verges in front of their own homes if they considered this was their only option because of a lack of parking provision in their neighbourhood.
38. At a Task Group meeting on 12 May 2016 Members were provided with information by the Head of Highways and Waste, the Traffic Manager and the Head of Parking Services.
39. Members noted that comments from residents fell into three general categories:
  - Damage caused by parking on verges – there were a number of causes for this including narrow streets, concerns about damage to cars parked on the road, multi-car households with insufficient off-road parking and where motorists simply choose to park on, and damage, the verge even where more appropriate parking was available.
  - Damage caused by motorists accessing expanded off-road parking on their property by driving across the verge
  - Damage caused by large vehicles (including council vehicles) mounting verges or cutting corners
40. The Task Group was told that while the Council has a damaged grass verge policy approved in 2000, enforcement action is rarely taken. The biggest problem was one of proof and resources needed to gather evidence. The city has two highways inspectors when it used to have six and they are responsible for the whole of the carriageway including verges and pathways. Inspectors go out to complaints about damage to grass verges and report any problems they find. Where deep ruts in verges are observed by the highways inspectors, these are reported to the Public Realm team.
41. The Council takes advantage of community payback teams to help repair damaged verges one day per week. These are people who have been given a community sentence after having been convicted of a crime by a court. It costs £35 per square metre to repair a verge, including all labour material and labour costs, and by using these community payback teams the Council is able to reduce costs.

42. No general repairs to verges are undertaken between October and March unless the damage presents a danger when the verge will be repaired with light rubble and top soil.
43. It was noted that where a household expands the off-road parking in front of a property, they are required to request, and pay for, the installation of a verge crossover. It is likely that many households are unaware of this. There are a large number of instances where this requirement has not been adhered to. The Task Group was informed that when footway reconstruction work is being done in an area, there is an opportunity for residents to request (and pay for) verge crossovers to be installed, provided that they are made aware of this opportunity.
44. It was suggested that ward councillors could request a 'menu' of options which would give them an idea of the cost of various interventions that could be funded through ward budgets, where there is local agreement that such work is a priority, such as:
- Reactive verge reinstatement work
  - Proactive work to protect corners prone to damage, such as inserting plastic cells into the ground or more radical options such as green tarmac or painted tarmac
  - Construction of parking lay-bys, potentially in conjunction with Estate Improvement Grant funds where appropriate, or other local sources of funding that may exist
45. There was a discussion about strategies for raising awareness with residents, for example with those residents unaware of the requirement to install a verge crossover where expanded off-street parking has been created.
46. The Task Group recognised that the nature of the problem, and the potential solutions, will differ from street to street and that many people who park on grass verges are not being malicious. They are not seeking to destroy verges but have got used to parking on them because of the narrowness of many streets and fear of damage to their vehicles through being hit by a passing vehicle.

### Objective (iv) and (v)

47. In early June 2016 the Task Group met planning officers to discuss what consideration is given to car parking when planning applications are agreed.
48. Members noted that the Council has a list of parking standards for assessing planning applications for developments within the city. The criteria for car parking standards are flexible but the standards stated are the maximum. Each development proposal is assessed downwards according to site conditions, using the maximum standard as a starting point. This allows for variations, depending on the individual characteristics of each site.
49. The criteria for assessment includes:
  - the built environment
  - on street parking capacity
  - access and amenity implications for other residents
  - road width
  - traffic levels
  - type of development proposed
  - accessibility to York City Centre by foot or bicycle
  - level of public transport provision
50. The parking standards apply to both new build and change of use applications. In some cases where change of use is sought, the appropriate standard will be physically impossible. In these cases the individual application will be considered in accordance with the criteria outlined above to determine whether provision below the stated standard is acceptable.
51. The number of designated spaces that should be provided are:

Dwelling houses – car parking – within the cartilage of each dwelling or within communal parking courts

Zone	Type of dwelling	Car parking standard
York city centre foot streets	All types	0
Rest of York city, district centres and rest of district	1 or two bedrooms	1 per dwelling (can include garage)
	3 or more bedrooms	2 per dwelling (can include garage)

- In addition, outside the foot streets and York city centre, a visitor parking standard equal to 1 space per 4 dwellings will be required. This can be provided on the street.

#### Residential – special categories

Type of dwelling	Zone	Car parking standard
Multiple occupation/ bed sits	York city centre foot streets	None
	Rest of York city centre and district centres	1 per 3 units
	Rest of district	1 per 2 units
Student accommodation	York city centre foot streets	None
	Rest of York city centre and district centres	1 per 5 units + 2 spaces if resident warden

52. The Task Group was concerned that damage to verges was also caused by contractors' vehicles when they were doing conversion or extension work at properties. They suggested that an informative be included in planning application documentation stating that damage done to grass verges in the course of any work should be repaired on completion of the work and that the verges are re-instated to their original condition. This

could be proved by taking a photograph of the verge before any work is started.

## **Analysis**

53. The growth in car ownership has led to more vehicles trying to be parked than many streets can safely accommodate. One of the symptoms of this is the unprecedented increase in grass verge parking. The 'green' concept on which many residential areas have been designed is gradually being eroded due to indiscriminate and often irresponsible parking with many verges left devoid of grass. The grass verges and other ornamental grassed areas provide a valuable and attractive soft landscaped public amenity for everybody to enjoy.
54. The Council, as Highways Authority, is responsible for maintaining grass verges adjacent to highways. The Highways Act 1980 places a duty on the Highway Authority to maintain the public highway network in a condition that is safe for users. The public highway network includes all roads, footpaths and verges which the highways authority has responsibility for. In order to keep the highway in a safe condition CYC regularly inspect the network in accordance with the current Code of Practice for Highway Maintenance.
55. Unlike roads, grass verges are not designed to take the weight of vehicles and parking on them can cause damage to the pavement and kerb as well as the grass and also to underground utilities.
56. As traffic levels and car ownership have increased, so have issues relating to the repair and maintenance of verges in residential areas caused by vehicles being driven and parked on the verges.
57. York, like every other town and city in the UK, has seen a continuous rise in levels of car ownership. This has led to a situation where parking in a number of neighbourhoods in the city is very difficult. Housing estates that were planned many years ago were not designed to cope with the current number of parked cars. Today, households with more than one car is commonplace and it is not uncommon for some properties to accommodate the drivers of three or more vehicles, all of which they expect to park in close proximity to their home.
58. The effect of this is that, in areas where there is little parking provision, both occupants and visitors park on grass verges. This often results in significant damage being caused to verges, particularly during periods of wet weather when, at best, verges can become unsightly and, at worst,

completely destroyed. Even in dry weather verges which are parked on regularly become little more than hard standing parking areas with little sign of the former grass cover.

59. It is important to note that a vehicle can only be illegally parked if there are no parking restrictions operating in the area. But to enforce a Traffic Regulation Order would require yellow lines and traffic signs, adding to the street clutter in some areas of York.
60. Drivers parking on a grass verge can prevent grass cutting from taking place both underneath the vehicle and around it. Although verge protection methods such as posts can prevent a driven lawn mower from cutting the verge, strimmers can be used instead. However, strimmers are a more time consuming and costly way of grass cutting.
61. It is not currently illegal to park a vehicle on a grass verge (unless there are parking restrictions on the associated road) but as most verges are owned by the council they are expected to repair any damage with local council tax payers covering the cost.
62. As part of the examination of the work of other councils in relation to parking on grass verges the Task Group were made aware of treatment options considered by Hampshire County Council. Their options to address the problem, including the advantages, disadvantages and potential risks, may be applied to York.

### Provide additional parking spaces

#### Advantages

- Satisfies public demand for secure, convenient parking.
- Controls the location and manner of parking.
- Reduces environmental damage.

#### Disadvantages

- Reduces the 'green' environment.
- Reduces 'non-vehicular' public space.
- Increases run-off of surface water.
- Works are very expensive (costly to undertake if done properly; costly to maintain if not done properly).

- Does not promote policy of reducing dependency on motor vehicles.

### Risks

- May increase demand for parking space, which then is never satisfied.
- May require extensive diversion of buried utility services.
- May discourage residents from providing off-street parking.
- May overload existing drainage system.
- May be difficult to justify selection of limited number of high priority sites for treatment.

### Prohibit verge parking

#### Advantages

- Controls the location and manner of parking.
- Reduces environmental damage.
- Encourages residents to provide off-street parking where possible.

#### Disadvantages

- Requires bye-law or TRO to be made and enforced.
- Requires traffic signs and yellow lines.
- Does not satisfy demand for parking.

### Risks

- May not be enforceable.
- May displace parking problem to other locations.
- May lead to obstruction of the carriageway or footways
- May restrict access to local services (e.g. letter/telephone box, cash machine or convenience store).

### Exclude verge parking

#### Advantages

- Controls the location and manner of parking.
- Reduces environmental damage.

- Encourages residents to provide off-street parking where possible.

#### Disadvantages

- Requires extensive use of posts, railings or planting.
- Causes difficulties for verge maintenance operations.
- Does not satisfy demand for parking.

#### Risks

- May displace parking problem to other locations.
- May lead to obstruction of the carriageway or footways.
- May restrict access to local services (eg letter/telephone box, cash machine or convenience store).

#### Allow verge parking and strengthen verges

##### Advantages

- Reduces environmental damage.

##### Disadvantages

- Works are moderately expensive.
- Does not control the location and manner of parking.
- Does not promote policy of reducing dependency on motor vehicles.

##### Risks

- May require diversion of buried utility services.
- May discourage residents from providing off-street parking.

#### Allow verge parking and undertake periodic repairs

##### Advantages

- Inexpensive.
- Easy to manage.

##### Disadvantages

- Does not reduce environmental damage.
- Does not control the location and manner of parking.



- Does not promote policy of reducing dependency on motor vehicles.

### Risks

- May discourage residents from providing off-street parking.
- May lead to further abuse of highway land.
- May appear to suggest a lack of care.

### **Consultation**

63. The Task Group has consulted with relevant council officers and considered the views of interested residents. These views are included in Annex A.

### **Conclusions**

64. There does not appear to be an easy solution to the problem without considerable additional resources being applied to enforcement, the provision of alternative parking spaces or installation of physical prevention measures. Any additional funding and resources would need to be identified against other Council priorities.
65. The parking of vehicles on grass verges, footpaths and pavements is increasingly widespread and creates significant problems in many areas for residents, highway users and for the Council itself. The circumstances of each case vary widely and thus it is extremely difficult to identify a single solution that can be applied universally.
66. There is a need to strike a balance between parking provision and maintaining a pleasant environment, while also ensuring that any solution implemented is that which is most appropriate to local needs.
67. Grass verges are not designed to take the weight of vehicles parking on, or heavy vehicles driving over them. Damage can be caused to the pavement, kerb or verge and also to underground utilities.
68. Drivers parking on grass verges can prevent routine maintenance such as grass cutting from taking place both underneath the vehicle and around it, further damaging the street environment.
69. It could be possible to convert the grass to a hard surface. This option must be balanced against the increased risk of flooding due to surface water run-off, the high costs of installation, potential road safety concerns

and the visual impact on the street scene.

70. While verge protection measures can reduce environmental damage it may divert the parking problem to other locations if there is inadequate alternative parking available nearby. Any potential solution must demonstrate that there will not be a worse problem caused elsewhere by parking displacement.
71. It must also be remembered that CYC is committed to reducing dependency on motor vehicles and to improving travel choices for residents and visitors to the city.
72. In some areas vehicles parked on verges cause serious problems for pedestrians, particularly blind, disabled and older people which may result in them having to step off the footway onto the road, thus putting themselves in danger.
73. Bollards and posts can be effective in preventing verge parking but there is no budget set aside for installing them. The bollards themselves become an additional maintenance burden; they increase the time taken to maintain the verge and they are considered an unacceptable visual intrusion by some.
74. Various interventions, such as placing planters on verges in problem areas, could be looked at by Parish Councils or could be funded through ward budgets.

### **To Progress the review**

75. It is anticipated that the Task Group will require one further meeting to achieve Objective (vi) “to assess what can be legally done in the most practical and cost-effective way to protect grass verges from the damage caused by motor vehicles” and to formulate recommendations to be included in the draft final report.

### **Options**

76. Having considered the information provided in this report, the Committee may choose to progress the work on the review by:
  - Requesting additional information in support of the review aim and objectives or,

- Agreeing that adequate information has been gathered to identify the most practical and cost-effective recommendations.

## **Council Plan 2015-19**

77. This scrutiny review addresses an ongoing issue for residents in a number of wards and will aim to identify a solution for those local communities. The review therefore supports the 'a council that listens to residents' priority of the Council Plan.

## **Risks and Implications**

78. There are no risks or implications associated with the recommendations in this report. Any risks or implications associated with the recommendations in the draft final report will be addressed accordingly.

## **Recommendations**

79. Having considered all the information provided within this report the Committee are recommended to:
- i. Note the work on the review to date
  - ii. Agree whether any further information is still required to conclude the work on this review
  - iii. Agree any changes required to this interim report in order that it may form the draft final report for this review

Reason: To conclude the work on this review in line with scrutiny procedures and protocols.

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**Report Approved**  **Date** 5/07/2016

**Wards Affected:**

**All**

**For further information please contact the author of the report**

### **Annexes**

Annex A: Public Comments.

### **Abbreviations**

CYC- City of York Council

DVLA – Driver and Vehicle Licensing Agency

EDAT – Economic Development & Transport Policy & Scrutiny Committee

TRO – Traffic Regulation Order