

WIRRAL COUNCIL

SUSTAINABLE COMMUNITIES OVERVIEW AND SCRUTINY COMMITTEE

21ST NOVEMBER 2012

SUBJECT:	PAVEMENT & GRASS VERGE PARKING
WARD/S AFFECTED:	ALL
REPORT OF:	INTERIM DIRECTOR OF TECHNICAL SERVICES
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR HARRY SMITH, STREETSCENE AND TRANSPORT SERVICES
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report has been compiled to provide a strategic overview of the problems associated with pavement parking, the current legislative framework and proposals on how the Council can increase public awareness of the issue and in conjunction with the police, undertake appropriate enforcement action.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 Pavement parking can, in some circumstances, increase danger for road users as they negotiate such hazards. It can also lead to higher traffic speeds on some roads as vehicles need not slow to pass legitimately parked vehicles. The issue is particularly sensitive for the public and Members alike, and is the subject of many enquiries to Streetscene. This is not only a problem for the public of Wirral, it is also a problem nationally.
- 2.2 Road safety, including the safety of pedestrians is an important matter for the Council. During 2011 there were 118 road accidents involving pedestrians. Analysis of the recorded data by my Accident Investigation Unit reveals that there have been no recorded personal injury accidents that specifically identify that a pedestrian was walking in the carriageway due to the footway being obstructed by parked vehicles. It is also not possible to identify those accidents where a pedestrian chooses to cross a road and re-cross back again due to parked vehicles causing obstruction.
- 2.3 The Council has a legal responsibility to keep the roads and pavements safe for public use. The practice of parking vehicles either partly or wholly on a pavement or grass verge affects the Council's ability to comply with this obligation.
- 2.4 In response to requests for assistance from Local Authorities, the Department for Transport (DfT) has in the past carried out a consultation exercise with a

number of Authorities who have applied for, or are applying for, decriminalised parking enforcement powers and as a consequence of this exercise have now produced good practice guidelines.

- 2.5 The consultation exercise has produced a number of results, it appears that the three areas most affected by pavement/verge parking are residential areas, school sites and shopping areas.
- 2.6 In residential areas, narrow roads result in drivers parking on pavements/verges in an effort to avoid obstructing the road for through traffic and, in particular, large vehicles such as refuse collection vehicles, removal/delivery vans, etc.
- 2.7 In these locations residential parkers are generally aware that they should not be parking on the pavement/verge but they persist for the following reasons:
 - i) They desire front door access and will park as close to their property as physically possible.
 - ii) They are concerned about damage to their wing mirrors and to their vehicle generally.
 - iii) They lack the alternative facility of off-street parking (driveways etc) to park their vehicle coupled with the current rate of vehicle ownership.
 - iv) The situation is worse in roads where there is more than one vehicle per household.
 - v) They also fear that their vehicle will be vandalised if it is parked too far away from their property.
 - vi) Laziness has also been shown to be a common factor, in many cases the vehicle owner can park on the road without causing an obstruction and in some cases are also able to park on their drive, but they choose to park on the pavement or grass verge because it is available and involves less effort.
- 2.8 Many areas were designed when car ownership was not high. Some older housing estates have a significant number of amenity areas and narrow access roads. Houses in these cases can front onto large grassed areas without direct road frontages.
- 2.9 Pavement/verge parking is a major problem at peak times outside most of the school sites in the Borough. Those who pavement/verge park outside schools do so regularly.
- 2.10 Shopping areas both main and local are the focal point for pavement parking by commercial and private vehicles.
- 2.11 Those who park commercial vehicles on the pavement/verge are generally undertaking short duration deliveries. They also consider it to be their right to park on the pavement outside shops because of, in some cases, the size of the delivery and the security implications of parking their vehicle away from the delivery point.

2.12 The DfT findings also stated that many commercial parkers considered it to be their employers responsibility to pay any parking fine which they might receive and consequently the parking fine was no deterrent to them.

2.13 Under current legislation, there is no national, or area wide prohibition for pavement parking except in relation to goods vehicles with an operating weight of more than 7.5 tonnes. Such classes of vehicle are already prohibited from parking on footpaths, verges or other road central reservations under Section 19 of the Road Traffic Act 1988. Offences under this section of the Act can be dealt with by the police issuing a penalty notice. There are some exceptions (loading; saving life).

2.14 The area covered in London, under the Greater London Council (General Powers) Act 1974, has alternate arrangements whereby parking is banned on all footways and grass verges by default, unless the highway authority has made specific provision to relax this – including the provision of signs.

2.15 Based on recent discussions with the Department for Transport, it is unlikely that a national ban on pavement parking will be introduced in the foreseeable future.

2.16 Obstruction resulting from footway or verge parking is not enforceable by the Council's parking management provision – unless there is a specific signed Traffic Regulation Order (TRO) made within the remit of the Road Traffic Act 1984 in place (see Appendix 3 for sign detail). Enforcement is therefore only generally possible through the Police. Other TROs such as single or double yellow lines in place on a specific section of carriageway cover the whole width of the road including footways. In such cases prosecutions for infringement of the specific yellow line TRO can be undertaken by the Council.

2.17 Individual instances of parking on footways or verges can be considered by police officers to be obstructive or dangerous and may constitute an offence under one or more of the following sections of existing legislation:

- Section 137 of the Highways Act 1980 – which makes it an offence to wilfully obstruct the free passage along a highway (and applies to all modes of travel, including pedestrians).
- Section 28 of the Town Police Clauses Act 1847 – which deals with offences of wilfully causing an obstruction to any public footpath or public thoroughfare.
- Regulation 103 of the Road Vehicles (Construction and Use) Regulations 1986 – which makes it an offence for a vehicle to cause unnecessary obstruction of the road (including footpaths and grass verges).
- Section 22 of the Road Traffic Act 1988 – which contains the offence of leaving a vehicle on the road (including footways) in a dangerous position.

2.18 Whilst these offences appear to clearly indicate parking on footways and verges is not permitted, officers within the police point out that unless there is evidence that a footway or carriageway is fully 'obstructed', there are no other definitions of what constitutes 'obstruction', 'wilful obstruction' or 'unnecessary obstruction'

and in such cases they are less likely to secure a successful prosecution. Additionally, as Members may be aware the recent economic downturn has resulted in limitations in police resources, with such offences being seen as a lower priority than burglary, violence and other crime

- 2.19 Over a number of years since 2005, Wirral Council has introduced 9 individual Traffic Regulation Orders (TROs) to prohibit parking within defined roads, where significant damage or other problems have been identified. They have all met the criteria previously agreed by Members and progress in developing this initiative over a number of years has regularly been reported to this Committee.
- 2.20 Where such specific TROs have been introduced it has been necessary to undertake formal advertising, the creation of 'sealed' Orders and erection of signs on lighting columns or additional signposts, in order to comply with legislation. Despite recent relaxations of the Department for Transport (DfT) signing regulations, this process (including signs spaced at approx 30 metres) is still required.
- 2.21 After an initial 'bedding-in' period, the 9 schemes introduced to date appear to be reasonably well respected by motorists with good compliance in all locations and few prosecutions undertaken.
- 2.22 Whilst the needs and indeed, safety of vulnerable road users are of key concern, experience has shown that there could be further unintended difficulties arising from widespread pavement parking restrictions:
 - i) Removing parking from all footways will, inevitably mean drivers will have to park fully on the carriageway. In many cases Wirral's existing/historic residential road network was not built to cater for the level of car use we see today. Carriageway widths in many cases are less than 7m wide, with some estate roads such as Leasowe, Woodchurch and Moreton together with many terraced roads in Birkenhead, Wallasey etc having roads of 5.5m wide. In some cases residential roads are especially narrow being less than 5.0 metres wide in some locations in the Moreton area but have very wide grass verges adjacent to them. A particular problem now in these locations is the number of vehicles being parked on these large areas of grassed open space which on former Council housing estates such as Woodchurch can number more than 100. This practice causes considerable damage at this time of the year and again is a particularly sensitive issue for the public and Members. The parking of vehicles on these large grassed areas should also be considered for restrictions and enforcement.
 - ii) Parked vehicles displaced from partial or full parking on footways may then restrict free passage on the carriageway for through traffic, buses, deliveries, waste collection or even the emergency services.
 - iii) In order to avoid obstruction of the carriageway, drivers of displaced vehicles may need to park considerably further away from residential properties (potentially in different roads) which may give rise to problems

for parents with small children, the elderly or those with mobility problems having to park considerable distances from their properties.

- 2.23 Merseyside Fire and Rescue Service have not identified any specific problems accessing locations whilst on an emergency call out during the last 12 months due to obstruction caused by parked vehicles. Dependant upon the emergency, a fire and rescue crew may decide to use force to ensure they are able to get to their destination. In such cases, though regrettable, damage may be caused to other vehicles, with the matter also then referred to the police.
- 2.24 A leaflet has been developed by officers (see **Appendix 1**) which aims to warn drivers of inappropriate parking which has caused obstruction. This leaflet has not yet been trialled, as officers consider that Members would need to give approval.

3.0 PROPOSALS

- 3.1 Whilst ideally, there are good reasons to take a zero tolerance approach to footway parking, in reality introducing a comprehensive ban on footway/verge parking without specific, detailed site by site consideration, is likely to be costly, create further on road obstruction and give rise to both sign clutter and maintenance liabilities.
- 3.2 At present there is no minimum identified width for pedestrians using footways to serve as an indication when obstructive parking occurs. Indeed, there are some footways in the Borough which are exceptionally narrow (less than 1m) – without any obstructive parking.
- 3.3 It is recommended therefore, that officers draft a series of working proposals relating to acceptable remaining footway widths in consultation with Area Forums, WIRED, Wirral's Pedestrian Association and the emergency services.
- 3.4 The proposed programme of measures aimed at reducing anti-social, damaging obstructive parking is designed as a 4 way approach:
- i) In conjunction with the Police, undertake a widespread public information campaign using a variety of media strands such as posters, general leaflets, website, letters to parents etc to inform the public of the current problems generated by pavement parking; the existing legislation and penalties that can be imposed. Area Forums committees can allocate additional resources to promote such information, if they consider pavement and grass verge parking to be of particular concern in their area and a priority against other calls on their resources.
 - ii) Problems of obstructive parking on footways or grass verges that are then identified via members of the public, Council officers (eg highways inspectors), Council contractors (eg NSL parking enforcement officers), Members etc. could initially be dealt with by attaching warning leaflets to

the windscreens of problem vehicles, normally slipped under windscreen wipers.

Disadvantages: Additional litter, should drivers simply remove the leaflet and discard in the street. Potential claims for damage to vehicles or windscreen wipers by drivers.

Advantages: Relatively inexpensive. Acts as a first formal warning. May create a strong deterrent against future infringements.

- iii) Should a problem continue to be evidenced, or the degree of obstruction be deemed so great, the matter could be referred to the Police to seek additional enforcement action via Fixed Penalty Notice (£60), however it is recognised that this should not be a long term approach.

Disadvantages: May apply additional pressure for enforcement action by the police.

Advantages: Short term punitive action may provide a long term benefit without the need to resort to TROs, signs, etc.

- iv) Persistent problems of obstructive footway/verge parking could be referred to the appropriate Area Forums, with a view to securing funding to either undertake minor road widening or the creation of appropriate specific verge/footway TRO (see **Appendix 3** for sign detail), alongside a localised information/PR campaign and then enforcement by the Council's enforcement contractor. Similar action can be taken for those locations identified by officers such as highways inspectors or by Area Forums where significant damage to footways or verges is ongoing.

Disadvantages: Additional significant cost, combined with further street clutter arising from the required signage. Not a quick fix solution – TROs will require statutory advertisement, with the potential for delay should objections be received. Time consuming for staff

Advantages: Local determination of priorities by Area Forums; Targeted enforcement utilising the Council's parking enforcement contractor; reduced damage to highway infrastructure; reduced claims from tripping etc

- 3.5 Within the provisions of current legislation (para 2.17 above), where vehicles park partly or fully on a footway or verge, leaving sufficient room for free passage and parking so as not to cause a danger or cause identifiable damage, they would not normally be subject to further action.
- 3.6 If it can be proved that damage has been caused to the surface of a pavement/verge by a particular vehicle owner, then the Council can take action to recover the costs of the repairs through the Magistrates Court and if the person is found guilty, they are liable to a fine.

4.0 RELEVANT RISKS

- 4.1 Not taking action will result in continuing damage to footways and grass verges which will require repair, incurring additional costs.
- 4.2 Unsafe parking practices may result in increased risk of road accidents.

5.0 OTHER OPTIONS CONSIDERED

- 5.1 In addition to introducing specific TRO's to restrict pavement parking, local authorities also have powers now to introduce specific TRO's to legitimise pavement parking by identifying lengths of roads following the usual approach of advertising, making Orders and introducing relevant signing. The regulations set by the DfT for permitting pavement parking areas would also require carriageway markings (see **Appendix 2**).
- 5.2 An alternate approach to tackling the problems generated by pavement parking on Wirral would be to promote enforcement of the existing legislations identified in para 2.17 above, by the Police, but introduce specific pavement parking provision on a case-by-case basis.
- 5.3 This approach may have a long-term advantage of requiring fewer signs, as only those areas with a TRO would be permitted. It is considered however, that such an approach would rely heavily on police enforcement action for prosecutions. Officers consider that there are a large number of locations which, in reality, would require some specific pavement parking provision under such a scheme and that it would take many years to assess all roads where this is likely to be required. The assessment of locations where pavement parking may be permitted could delay enforcement action, as it may be inappropriate for the police to enforce locations which would come under consideration.
- 5.4 Locations identified may require significant additional work to reinforce the construction of the footway to carry the additional weight of vehicles over the permitted lengths.
- 5.5 Road Safety Officers consider that by signing specific areas for pavement parking, the Council may appear to condone pavement parking (albeit in some signed areas), giving rise to further public confusion and potentially bringing the scheme into disrepute in the future.

6.0 CONSULTATION

- 6.1 This report contains a recommendation to consult with Area Forums, the emergency services and Wirral Pedestrian Association.

7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 7.1 The introduction of further specific Traffic Regulation Orders will require formal advertising, processing and sealing.

- 7.2 The pursuit of the pavement and grass verge parking agenda is not currently a funded item and would require resources to be made available. As a “growth” item, careful consideration must be given to whether such resources could be identified considering the Council’s financial position. It may be that Area Forums could decide to allocate some of their funds to this topic, but central funding is unlikely to be available.
- 7.3 If funding was available, there could be a prospect of extending the role of the Council’s parking enforcement contractor to cover this additional area of enforcement and for them to serve fixed penalty notices on all vehicles parked on the pavements in any of the roads where traffic regulation orders are introduced.
- 7.4 The creation/implementation of a database to record persistent ‘offenders’ will require IT support and will need to conform with the data protection act.

8.0 LEGAL IMPLICATIONS

- 8.1 Restricting pavement parking will reduce the Council’s expenditure on pavement repairs and will maintain the reduction in public liability insurance claims arising from highway related tripping accidents.

9.0 EQUALITIES IMPLICATIONS

- 9.1 Obstructive parking itself, and the damage caused to footways and verges may present particular problems for people with mobility or sight problems, parents with prams and the elderly.

10.0 CARBON REDUCTION IMPLICATIONS

- 10.1 Effective control of on-street parking will have positive effects on quality of life issues such as access to property and visual amenity of the environment. It also supports sustainable goals in encouraging use of public transport and may lead to a saving in resource use where fewer repairs to pavements and verges are required.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 11.1 Enforcing and controlling pavement parking will reduce potential hazards and dangers to users of the public highway.

12.0 RECOMMENDATIONS

- 12.1 Members are requested to note this report and endorse the following proposed actions by the Interim Director of Technical Services.

- 12.2 Undertake consultation with Area Forums, emergency services, WIRED and the Wirral Pedestrian Association regarding appropriate minimum widths, impingement upon which would be deemed obstruction, and report back to Members in due course.
- 12.3 Review, and if found practical, prepare an invest-to-save proposal to address the consequences for highway maintenance and the defence of personal injury claims arising from pavement and grass verge parking.
- 12.4 If resources are available, conscious of the context described in paragraph 7.2 above, then implement a staged approach to managing pavement parking issues:
 - i) In conjunction with the Police, undertake an information/publicity campaign using a variety of media strands to raise public awareness of the problems and the potential penalties that can be imposed.
 - ii). Issuing of specific warning leaflets (Appendix 1) for drivers together with a database of persistent 'offenders' in problem areas.
 - iii). Referral to the police for dangerous, damaging or persistent obstructive parking.
 - iv). Refer to Area Forums for prioritisation of specific pavement/grass verge parking restrictions with subsequent enforcement action, as appropriate.
 - v). Investigate the creation of a database of details of vehicles regularly parking on footways and grass verges causing obstruction and/or damage.
 - vi). Undertake prosecutions of drivers causing damage to the highway infrastructure.
- 12.5 Request that the Senior Officers raise issues relating to obstruction and footway parking with all Council staff and its contractors.

13.0 REASONS FOR RECOMMENDATIONS

- 13.1 The parking of vehicles on pavements and grass verges is widespread across the Borough and many motorists regard parking on the pavement/verge as their right. They are either ignorant or unconcerned of the impact that their actions can have on the condition of the pavement surface or the obstruction that they cause to pedestrians, the elderly and the less able by forcing them to walk around the vehicle and onto the road. The damage it causes can also be unsightly and has a detrimental effect on the appearance and condition of the street scene, specifically where vehicles have parked on grass verges during the autumn months or during periods of heavy rain.
- 13.2 In terms of its impact on resources it is difficult to estimate exactly how much pavement parking costs the Council in terms of reactive maintenance/repairs but it is thought to be in excess of £40,000 annually. Add this to the administrative/staffing costs incurred in investigating and defending personal injury claims arising from damage caused by pavement parking, then the costs are probably in excess of £100,000. The pain and suffering caused to people who may trip as a result of damage caused by pavement parking should not be

underestimated. The elderly and less able are particularly vulnerable in this respect.

13.3 Pavement parking can cause a number of problems:

- Difficulty for pedestrians, especially for particularly vulnerable people such as children, parents with prams/pushchairs, people with mobility issues and the elderly.
- It can also block access to services such as fire hydrants, which can be vital in an emergency.
- In some circumstances, it can increase danger for road users as they negotiate such hazards.
- It can cause damage to kerbs, footways and grass verges which has a direct cost to the Council for repair.
- Pavement/verge parking can also cause damage to underground services and drainage systems, although the majority of such utilities are privately owned, repairs are costly and necessitate further disruption.
- It can also lead to higher traffic speeds on some roads as vehicles need not slow to pass legitimately parked vehicles.

13.4 Despite the benefits outlined in para 13.2, the Council's current financial position makes it difficult to identify resources to target this issue. It may be possible to adopt an invest-to-save model, but this would need further consideration.

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APPENDICES

- Appendix 1 – Copy of WBC obstructive parking leaflet.
Appendix 2 - Detail of signs and carriageway markings used to permit pavement/verge parking.
Appendix 3 – Detail of sign used to prohibit pavement/verge parking.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Sustainable Communities Overview and Scrutiny Committee.	18 November 2009
Sustainable Communities Overview and Scrutiny Committee.	26 September 2011

Appendix 1

Copy of WBC pavement parking warning leaflet



The image shows a two-page spread of a WBC (Wirral Borough Council) pavement parking warning leaflet. The left page features a large yellow background with black text and graphics. At the top is the Wirral logo, followed by the word "WIRRAL" in bold capital letters. Below this is a large, bold headline: "PAVEMENT PARKING IS NOT FINE!". A vertical column of text on the left side reads: "This notice has been attached to your vehicle because it was parked causing an obstruction to pedestrians. Causing an obstruction by parking on footways is an offence, for which the police can prosecute. If you are caught by the Police committing an unnecessary obstruction you could be fined £60." Below this is a section with the text "Don't be selfish" and "Don't risk prosecution". At the bottom is a section with the text "PLEASE DON'T PARK OBSTRUCTING OUR PAVEMENTS". The right page continues the warning, stating: "Parking irresponsibly and causing an obstruction means that pedestrians such as wheelchair users, the elderly, blind or partially sighted or people pushing prams or walking with children, are unable to pass safely on the pavement. They are often forced to walk out into the road putting them in danger." It goes on to explain council responsibilities and drivers' misconceptions. The bottom right corner of the right page contains the code "450AUG11PJ".

WIRRAL

PAVEMENT PARKING IS NOT FINE!

This notice has been attached to your vehicle because it was parked causing an obstruction to pedestrians. Causing an obstruction by parking on footways is an offence, for which the police can prosecute.

If you are caught by the Police committing an unnecessary obstruction you could be fined £60.

Don't be selfish

Don't risk prosecution

PLEASE DON'T PARK OBSTRUCTING OUR PAVEMENTS

Parking irresponsibly and causing an obstruction means that pedestrians such as wheelchair users, the elderly, blind or partially sighted or people pushing prams or walking with children, are unable to pass safely on the pavement. They are often forced to walk out into the road putting them in danger.

Wirral Council has a responsibility to keep our roads and footpaths safe. Parking on pavements and grass verges causes unnecessary damage which leads to additional repair costs. Wirral Council may take legal action against you if you cause damage.

Drivers mistakenly think that by parking on the pavement they are doing the right thing. In fact, cars parked sensibly on roads mean that vehicles have to give way to each other, which can help to reduce speeds.

Park sensibly and with consideration, and make our roads safer for all.

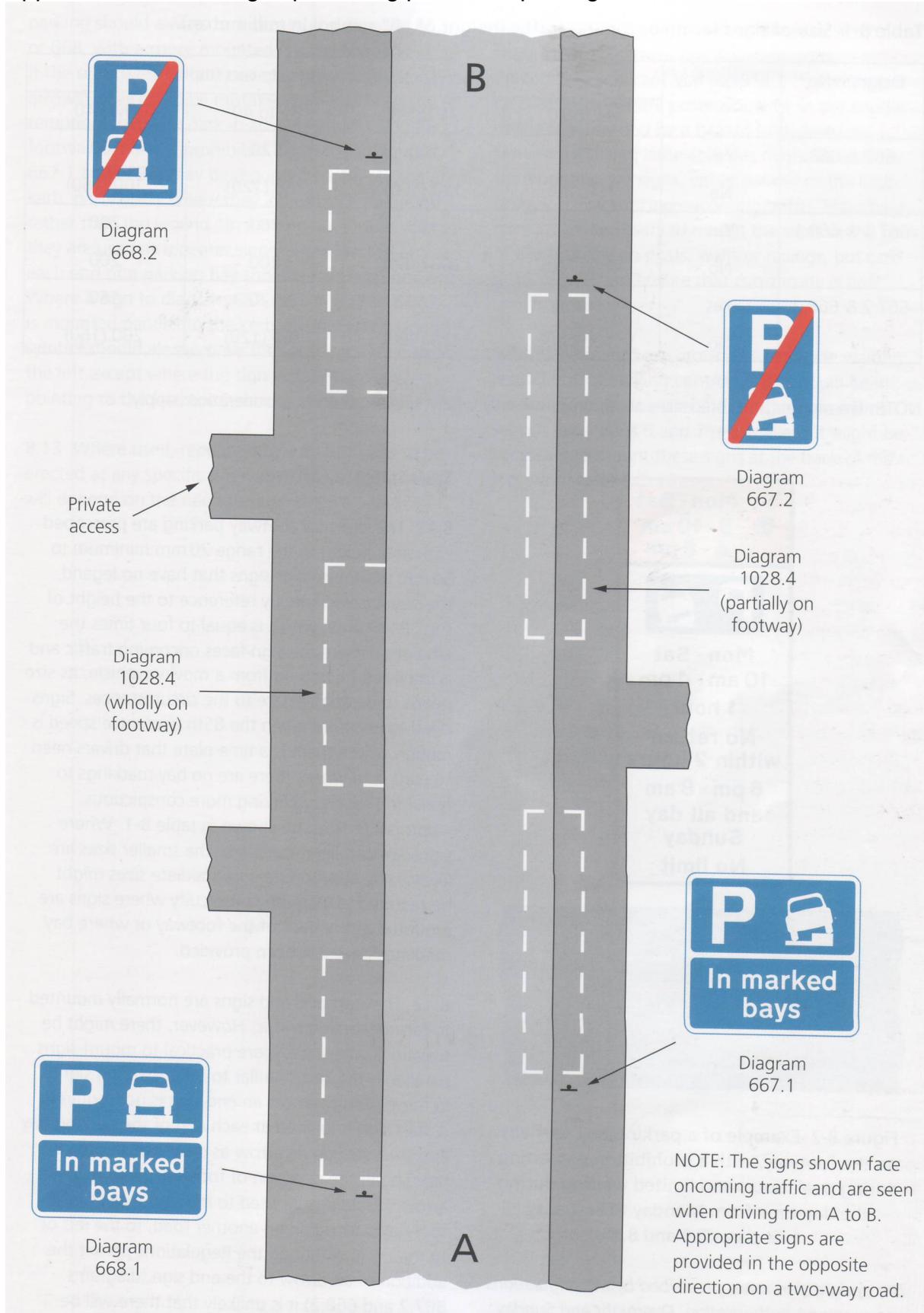
On this occasion you have not received a fine for your parking. This is a warning notice to advise you of the potential danger you have caused.

For further information contact Streetscene 0151 606 2004, or email Streetscene@wirral.gov.uk

450AUG11PJ

Appendix 2

Approved DfT traffic signs permitting pavement parking:



Appendix 3

Approved DfT traffic signs restricting pavement/verge parking:



Diag 637.7
No stopping on verge or footway