NOTICE OF MOTION RELATING TO TRAFFIC ORDERS TO PROHIBIT FOOTWAY PARKING

The following Notice of Motion submitted by Councillor D M Bryan has been referred to Cabinet for consideration and report back to Council for determination; such motion being in the following terms:

A recurrent problem throughout Pembrokeshire is getting worse as the days go by. It involves vehicles parking on pavements with the drivers giving no thought whatsoever to pedestrians being inconvenienced and, more importantly, endangered.

Visually impaired people with guide dogs, mothers with pushchairs, disabled people with mobility scooters and wheelchairs all, when faced with a vehicle parked on a pavement, have no alternative other than to go out into an often busy and dangerous road in order to proceed.

Mobility scooter users and wheelchair users may have to try and turn around and find an alternative route, assuming of course that there is room on the footway to turn around.

As Chairman of the County Council’s O and S Committee for Older Persons, Health and Wellbeing, I feel it is incumbent on me to ask the Council to consider bringing in traffic orders to prohibit footway parking.

Councillor Bryan’s written submission in support of his Notice of Motion is attached as an Appendix.

Existing Enforcement Powers

Where cars are parking on the pavements, obstructing passage by buggies or wheelchair users, from a highway perspective the Council can only carry out enforcement using Civil Parking Enforcement powers. Therefore, there need to be restrictions on the highway at the specific location. However, even with restrictions like double yellow lines, there are situations that allow disabled parking to occur (albeit this still does not condone obstruction). In addition, in some circumstances pavement parking is considered unavoidable - for example in narrow residential roads with no off-street parking. An approach to install more restrictions could see a proliferation of yellow lines & restrictions.
Chapter 3 of the Traffic Signs Manual (Regulatory Signs) notes that in London parking is not permitted on the footway or verge unless a resolution of the local authority under the Greater London Council (General Powers) Act authorises the provision of parking places, either partially or wholly on the footway. However, this is specific to London. The main issue with any order is to what extent it would be applied. The restrictions need to be signed and therefore it is not practicable to simply have an order covering the whole of the County. New zonal type signs which inform drivers that they are entering an area where footway parking is prohibited are being considered but experience shows that this type of signage is often missed by drivers and leads to challenges. Instead, if there are locations where there is a particular problem it is suggested that an order could be considered to address specific concerns.

The Police have previously fedback on this issue by noting that Regulation 103 of the Road Vehicles (Construction and Use) Regulations 1986 creates the offence of unnecessary obstruction. Of the numerous decided cases on what might constitute an obstruction, Nagy v West (1965) is generally recognised as being the authoritative case on the issue. In Nagy v West (1965) it was held that the test of whether a particular use of a highway, by a vehicle, amounts to an obstruction is whether such use is unreasonable having regard to all the circumstances including its duration, position and purpose. Also, whether the unreasonable use caused an actual, as opposed to a potential, obstruction.

**Dealing with the Problem of Pavement Parking**

The Police have the power to enforce obstruction, although the issuing of a fixed penalty ticket is considered as a last resort. The Police have previously recommended that any query regarding footway obstruction be forwarded to the Neighbourhood Policing Sergeant who will take ownership of this community concern site and deal appropriately.

If there are locations where there is a particular problem then an order could be considered in order to “target” the problem, rather than a ‘blanket’ approach.

**Conclusions**

In most areas (outside London), any specific footway parking ban can be applied locally and indicated by traffic signs. A local authority can make a traffic regulation order to prohibit footway parking on a designated length of highway or over a wider area. This means the Council can target problem areas rather than applying a blanket ban.

**Comments by Chief Finance Officer**

There are no financial issues arising from this report.

**Comments by Head of Legal and Committee Services/Monitoring Officer**

There are no legal issues arising from this report.
Comments by Head of Human Resources

There are no human resources issues arising from this report.

RECOMMENDATION:

That the Notice of Motion be not adopted, but that any specific issues be addressed on a targeted basis, either by specific traffic order proposal, or in liaison with the Police.

REASON FOR RECOMMENDATION:

To address a Notice of Motion referred from Council.

Background documents:

None
Supporting Submission - Notice of Motion relating to Traffic Orders To Prohibit Footway Parking

Further to my Notice of Motion re pavement parking that was moved and seconded at Full Council on 10th December 2015 I have only the following to add to the original submission.

The debate throughout the country has been very forceful on this subject throughout recent years. In Parliament recently the Minister for Parking announced that the Government will carry out research into the costs and benefits of containing the problem of pavement parking.

Guide Dogs for the Blind have been invited by the Government to be part of the initial discussions because, as you can imagine, the partially sighted element of society is particularly affected by the selfish drivers parking on pavements.

I would like to think that Pembrokeshire will be able to take a lead on keeping pavements for pedestrians not drivers. If a byelaw were to be brought in there would be no cost to the council as the upholding of that byelaw would be down to the police.

The elderly in wheelchairs, parents pushing pushchairs, partially sighted people with all their attendant problems, in fact all residents in the county will feel a lot safer not having to walk out into a busy dangerous road if vehicles are banned from parking on pavements.

As Chairman of the Overview and Scrutiny Committee for Older People I would welcome a positive response to my Notice of Motion.

Councillor D M Bryan