

London Borough of Barking and Dagenham

Domestic Vehicle Footway Crossover Policy (October 2015)

1. Introduction:

- 1.1 The Council is committed to reducing the numbers of vehicles parking on the borough's roads and encourages domestic property owners to park on their own land wherever possible. Many residents elect to create a hard-standing area in their front gardens so that they can park their cars within the curtilage of their properties.
- 1.2 It should however be noted that there is no absolute right afforded to residents to drive across the public footway / verge to access their off-road parking. Residents wishing to drive across the footway to gain access to park on their property must make application to the local authority under s184 of the Highways Act 1980 ("the Act") to have a vehicle crossover constructed.
<http://www.legislation.gov.uk/ukpga/1980/66/section/184>
- 1.3 Residents who permit vehicles to cross the public footway / verge to access their property may commit an offence contrary to section 16 – London Local Authorities and Transport for London Act 2003. The maximum fine upon subsequent conviction is £1,000.
<http://www.legislation.gov.uk/ukla/2003/3/section/16/enacted>

2. Primary Considerations:

- 2.1 The Council is the Highway Authority for all roads in the borough, with the exception of the A13 & A406 North Circular Road which is under the authority of Transport for London. Residents may request the Highway Authority to construct a crossover and the Highway Authority may approve the request with or without modifications. The Authority may propose alternative works, or may reject the request. In determining whether to use its powers in respect of footway crossings, the Council, as the Highway Authority, must consider the need to prevent damage to the footway/verge and, in determining the works to be specified in the notice, shall also have regard to:
- a) The need to ensure, so far as practicable, safe entry to and exit from premises;
 - b) The need to facilitate, so far as practicable, the passage of vehicular traffic on the highway network.
 - c) The need to maintain safe pedestrian passage
 - d) The stability and protection of the footway.
- 2.2 If the Highway Authority does agree to the provision of a crossover it must provide the occupier with an estimate for the costs of the works, and once this amount has been paid, the crossing must be constructed.
- 2.3 The Highway Authority must have regard to the primary considerations set out in the Act. Consideration should always be given to whether any concerns/ problems can be overcome by the Highway Authority exercising its power to modify the

request or propose alternative works. Each case must always be considered on its own merits.

- 2.4 When considering the construction of crossovers, the Council will take into account the maintenance of on-street parking. Total capacity and the “street scene” should not be compromised.

3. Planning Consent:

- 3.1 In addition to requiring the Council’s permission as the Highway Authority, there are instances where planning permission may also be required. Certain roads in the Borough are designated as “Planning Permission” roads and require approval under the Town and Country Planning Act 1990 to create a ‘vehicular access’. If the property is on one of these roads – a list is provided with the application form - residents will need to contact Planning and pay the required fee that will be in addition to the Highway’s fee.
- 3.2 In addition, planning consent may also be required if the applicant is unable to meet the drainage requirements for the hard standing, (see details under drainage section below)
- 3.3 Please note that approval for the construction of the crossover must be granted by LBBB Highways even if planning approval has been given by LBBB Planning, or by appeal through the Planning Inspectorate.
- 3.4 Please visit the planning website <http://www.lbbd.gov.uk/Environment/Planning/Pages/Planninghome.aspx> (see under ‘planning policy’ for further information on this guidance).

4. Housing Properties:

- 4.1 If a property is, or was once owned by the Council, “Off Street Parking Permission” from the Housing Service will be required. This will be dealt with as part of the application process.

5. Road Safety:

- 5.1 The Council has the right to reject any application under Section 184 of the 1980 Highways Act which it considers would result in a potential hazard to drivers or pedestrians. This must have regard for the need to ensure safe access and egress from the premises and the need to facilitate the passage of vehicular traffic on the highway.
- 5.2 Only locations, which have adequate sight lines for vehicles and pedestrians, will be approved. Recommendations may be made regarding improvements required to sight lines for the crossover to be approved. Such improvements shall be carried out prior to construction of the crossover. Footway crossings will generally not be approved where the crossover is in close proximity to existing or proposed features i.e. school entrance, road junction, pelican or zebra crossing, bus stop, road bend or traffic calming measures ..

6. Traffic Flow:

- 6.1 The installation of a crossover will lead to vehicles slowing down and turning off the highway when accessing a property. In some cases this can adversely affect the safety and free flow of traffic, particularly where traffic flows and/or speeds are high.
- 6.2 The impact of each application will need to be carefully considered, but this is likely to be a particular issue where access is proposed onto a classified road. The impact of a new access on bus reliability will also need to be considered.

7. Controlled Parking Zones (“CPZ”) and Pay and Display Bays:

- 7.1 The Council may refuse crossover requests where the resulting loss of public on-street parking would adversely affect the operation of the CPZ or other parking schemes. All crossover applications within a CPZ or affecting a designated parking bay will therefore be referred to the Group Manager for Parking Services so that the impact can be evaluated and a decision made whether the application can be allowed.
- 7.2 In particular, crossovers should not be permitted where they would result in the loss of more than one space in residents’ parking bays in a CPZ.
- 7.3 Where approved, a crossover that affects a designated on-street parking bay will require changes to the traffic management order (TMO). In the case of domestic applications, the cost of altering the road markings will be met by the applicant.
- 7.4 Ideally, the crossover should not be implemented until the TMO process has been completed. However, in view of time taken, the borough’s Traffic Manager may agree to the crossover being constructed and the road markings changed in advance of the TMO being amended. However, the applicant must be made aware that there could be objections to amending the TMO which, if not resolved, could mean that the crossover would have to be removed and the road markings reinstated. This risk must be explicitly accepted by the applicant so that there is no risk that the Council is liable for compensation.
- 7.5 To reduce costs associated with amending a TMO, the Council will wait until a number of applications are received before applying for amendment. In the case of applications for crossovers to commercial premises, or where access arrangements are changed as part of a redevelopment, the full cost of amending both the TMO and road markings will be charged to the applicant(s).

8. Impact on Neighbouring Properties:

- 8.1 In order to limit the impact on neighbours, a crossover will only be provided over the section of footway immediately in front of an applicant's property. The exception to this is where neighbouring properties have both requested a shared crossover.

9. Surfacing and Drainage of Hard-standings:

- 9.1 Crossovers will not be constructed until there is a suitable hard-standing in place.

9.2 The hard-standing must be of a solid form and base. Loose material such as unbound gravel will not be accepted as this could spill out onto the highway.

10. Drainage:

10.1 In order to control the way in which rainwater is managed The Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 states that if the hard surface to your front garden is more than 5 square metres it must either be made of porous materials or the water must run off into a soft landscaped or grassed area within your garden. It must not drain onto the public road or footpath. If this cannot be achieved you will need to seek planning permission.

11. Gates across vehicle entrance:

11.1 In no circumstances will gates fitted across the vehicle entrance to a property be permitted if they open outwards across the footpath or carriageway (Highways Act 1980 - Section 153).

12. Lay-By Parking and Modern Estates:

12.1 Crossovers will not be approved that reduce casual parking in purpose built parking areas in lay-bys etc. Generally, parking provision within modern housing developments will have been determined as part of the planning permission and further parking should be resisted. Planning permission may in any event be required if permitted development rights were removed as part of the planning consent.

13. Streets with Shared Surfaces

13.1 A Shared Surface Street is used by all forms of transport and are often in areas with limited motor vehicle movement. Pedestrian movement is not segregated although delineation between pedestrian and motor vehicular movement may be implied by use of a formal channel or changes in surface appearance.

13.2 Where a street has a "shared surface" front garden parking may still be allowed but would be subject to the normal application process.

13.3 Depending on the construction of the shared surface, dropping a kerb or strengthening of the footway area may or may not be necessary and any costs incurred will be representative of the work required.

14. Forecourt Dimensions:

14.1 The Council will only grant permission for a footway crossing when the available off road space is large enough to fully accommodate a vehicle. For perpendicular parking, the front garden parking area must have a clear length of 4.5 metres from the Public Footpath toward the building and width of at least 2.4 metres. This area should be clear of any obstacle that could affect the passage of a vehicle.

14.2 If the area is less than that described an application for parking at an 'angle' can be considered but approval will only be given if the proposed parking space can be

entered by a vehicle from the road in a single and safe movement. The parking space must be maintained at all times.

- 14.3 For Angled Parking to be considered the available space between the Public Footpath and the building must be a minimum of 3.8m. In this case there must be a proportionate increase in the available width.
- 14.4 No application will be approved where the depth of the parking space is less than 3.8m
- 14.5 It will usually be expected that the vehicle will be able to enter and leave a frontage in one manoeuvre.
- 14.6 Other options will only be considered in exceptional circumstance e.g for a registered disabled person provided the vehicle can be wholly parked within the curtilage of the property (enclosed area around front of property) and that no part of a parked vehicle will overhang the footway.

15. Crossover Widths:

- 15.1 A crossover shall be a single width of 3.6 metres (including angled kerbs) when serving one property. Only in exceptional circumstances will an alternative size be considered.
- 15.2 Where an existing shared crossover serves two properties an extension to the crossover may be allowed up to our maximum permitted size 7.2metres. The extension will be a maximum of 3.6 metres per property (including angled kerbs) measured from the centre of the existing shared crossover. There are *no other circumstances in which an extension to an existing crossover will be allowed*

16. Distance between Crossovers:

- 16.1 Where separate crossovers serve adjacent properties, a minimum level platform of 300 mm must be provided between adjacent dropped kerbs.

17. Shared access:

- 17.1 Where the occupiers of two adjoining properties share a driveway, and wish to build a double width crossing to serve the two sites, one occupier may act on behalf of both parties although separate applications must be submitted by both parties and acceptance and payment must be made by both. (The cost of construction will be shared between both applicants)

18. Obstacles to construction:

- 18.1 Approval of a Footway Crossing will not normally be granted if it requires the removal of street trees, highway shrubbery or amenity greens.
- 18.2 Where their construction will require either the removal or cutting of the roots, of a street tree, permission to proceed will only be given on the agreement of the Council's arboriculture team who will refer to the Council's current Tree Policy.

- 18.3 Generally, a street tree will only be removed if it is considered to be at the end of its useful life expectancy, or in some exceptional circumstances. In all cases where it is agreed to remove a street tree, the applicant will be required to pay for the cost of its removal and replacement to be located, wherever possible, elsewhere outside their frontage
- 18.4 It is also unlikely that approval will be given if the crossover requires the relocation of any street furniture e.g. lamp columns, road signs, litter bins or bus shelters. Consideration will only be given if the applicant agrees to meet the full cost of any relocation, including electrical supplies if appropriate, and if an alternative site is considered suitable.
- 18.5 If any Utility apparatus e.g. fire hydrant, manhole etc requires adjustment or relocation it will be the applicants responsibility to liaise with and pay the statutory authority direct. BT does not allow the relocation of telegraph poles.

19. Permitted types of vehicles:

- 19.1 Domestic vehicle crossovers are not designed to be driven over by heavy goods vehicles or mechanical equipment and should only be used by a private car, light goods or similar vehicle. Any damage caused to a crossover as a result of a delivery or the placing of a skip or other heavy items will be repaired and the full cost of these repairs will be charged to the property owner or company responsible.

20. Overhanging Vehicles and the illegal crossing of the public footway:

- 20.1 It is illegal to drive a vehicle across a public footpath without using a properly constructed footway crossing.
- 20.2 No part of a vehicle parked within a property frontage may project on to or over the highway. The crossover may not be used as a parking area and no part of it is exempted for the purpose of footway parking.
- 20.3 The Council will check and monitor any instances of, or complaints about, the overhanging of vehicles or the illegal crossing of the public footway. This will involve issuing an initial warning and then issuing a prohibition notice and fine where appropriate. Overhanging vehicles can be reported to the Councils Street Enforcement Team / Parking Enforcement team on 020 8215 3000.

21. Unauthorised Crossing of a Footway:

- 21.1 The Council may issue a notice under s16 of the London Local Authorities and Transport for London Act 2003 giving an occupier of premises adjoining or having access to the highway at least 28 days to cease taking a mechanically propelled vehicle(s) across the kerbed footway or verge. Failure by the occupier to do this the Council may execute such works as may be necessary to prevent mechanically propelled vehicles from being taken across the footway or verge. This will not apply to premises occupied by registered disabled persons and the Council may recover the expenses reasonably incurred by them in doing so from the owner or occupier of the premises in question.

22. Crossover Construction:

- 22.1 Crossovers will be constructed by the Council's Term Contractor and construction costs will be based on the contractor's agreed charge rates plus an administration fee in accordance with the Highways Act 1980 and section 4 of the Local Authorities (Transport Charges) Regulations 1998. This is in addition to the Application Fee.
- 22.2 The dimensions of a crossover will be dependent on individual locations taking in to account the verge and footway type. The size of a crossover will generally be 3.6m at the kerb edge reducing to 2.7m at the back of the footway.
- 22.3 The materials used will be chosen by the Council to match the footway and other crossovers adjacent to the property and within the street.

23. Applications for Commercial Crossings:

- 23.1 Properties that require access for commercial purposes are subject to a separate process and application for a "Commercial Crossing". These crossings are generally for the use of heavier or more frequent traffic and may require a larger and more robust crossing than for a residential property. This may involve relocation of Utility apparatus and as such each location may be subject to investigation and liaison with Utility companies.

24. White Access Bars:

- 24.1 Residents may apply for a white access bar to be painted on the carriageway across the extent of the dropped kerb to highlight the area of the vehicle crossing and deter inconsiderate parking. The markings are advisory but where a vehicle parks across any dropped kerb without the permission of the property owner/occupier, a penalty charge notice can be issued. Because this offence relies on knowledge that no permission has been granted, we can only enforce after a complaint received.
- 24.2 These will only be installed in streets where there are no parking bays or restrictions.
- 24.3 The Council will install and maintain the white access bar line at the applicant's expense but reserve the right to remove this at a later date without refund to accommodate a parking or other highway improvement scheme.

25. Enforcement of Driveway Marking

- 25.1 A driveway marking may be enforceable if there is a white line or yellow line across the location.
- 25.2 If a resident wants to request for enforcement of unauthorised vehicle parked across a driveway marking, a call is made by the resident to the contact centre on 020 8215 3005 to report such and the contact will send a CRM request to parkingenforcement@lbbd.gov.uk
- 25.3 The resident must provide the unique reference number for the location, confirm the address and supply the registration number for the unauthorised vehicle.

25.4 This process is to ensure there is sufficient evidence to substantiate that the request was made for enforcement which is required if the PCN is contested and the case progresses to PATAS.

25.5 When enforcing, an observation period of 3 minutes is given.

26. Redundant Crossovers:

26.1 Any redundant crossover(s) must be removed and the footway reinstated at the applicant's expense if a new access is to be created.

27. Alterations to a Crossover:

27.1 The Council may need to alter the layout of a domestic crossover at any time, due to highway modifications and improvements. Every effort will be made to maintain access to the property and the occupier of premises so affected will be given adequate notice of such works.

28. Costs and Timescales:

28.1 All charges for services and goods provided to customers are set and reviewed annually.

28.2 A non-refundable administration fee will be charged for processing each application. This covers the cost of officers visiting and assessing the suitability of the location for a crossing and the production of an individual quotation.

28.3 On payment of the quoted cost of construction, an additional Administration fee is payable that covers the cost of officers checking the suitability of the hard standing, liaising with and issuing orders to the contractor, checking works and dealing with queries, checking and agreeing contractor invoices and arranging payment.

28.4 The final cost will also include a one off payment against future maintenance when identified by the Council at no further cost to the resident.

28.5 The fees, charges and enforcement cost schedule will be advertised on the Council's website; which are subject to yearly review.

28.6 The cost for the construction of the crossover is based on the rates contained in the contract of the current term contractor for reactive Highway works that has been awarded following a competitive tendering process. The quoted price will be applicable for a period of 3 months following which a resubmission may be required.

28.7 Where on inspection it is evident that damage to the footpath has been caused through unauthorised crossing by vehicles, any associated works of repair will be included in the cost of works quoted.

28.8 The Council aims to construct crossovers within 8 weeks of payment having been received or an instalment plan agreed subject to the resident having all approvals and consents in place and the hard standing constructed.

29. Enforcement:

- 29.1 If a property is identified as allowing vehicles to access a hard-standing on the property without the assistance of an approved vehicle crossing; Enforcement Officers will write to the occupant of the property explaining that it is an offence to cross the public footway / verge without the assistance of an authorised vehicle crossing. This is contrary to *s.16 London Local Authorities and Transport for London Act 2003*. Enforcement Officers will request that the occupant desists from crossing at that point and invite him/her to make an application for a vehicle crossing. This letter gives non-complaint residents three weeks to make an application for a dropped kerb.
- 29.2 At the expiration of the three week application period if no application has been received an additional letter offering seven additional days to apply for a dropped kerb is then sent.
- 29.3 Upon subsequent inspection if it appears to enforcement officers that vehicles are still crossing the public footway / highway without the assistance of an approved vehicle crossing a prohibition notice will be served on them under the provisions of *section 16 – London Local Authority and Transport for London Act 2003*. This notice allows him/her 28 days from the date of the notice to desist crossing at this point or alternatively to make an application for an authorised vehicle crossing. This notice has a right of appeal giving 21 days to appeal the notice.
- 29.4 Should the occupier of a property that permits vehicles to cross the public footway/verge without there being in place an authorised vehicle crossing persist in doing so contrary to the service of a prohibition notice; the Council reserves the right to install bollards on the highway to prevent access to said private property as well as referring the matter to its solicitors for the consideration of prosecution.
- 29.5 Where at any stage enforcement action has been required the costs of this action will be added to the application fee. No application will be approved without full payment of all enforcement costs. We will write to the non-complaint resident at each stage confirming the outstanding balance of enforcement costs where appropriate.
- 29.6 The fees, charges and enforcement cost schedule will be advertised on the Council's website; which are subject to yearly review.
- 29.7 The Council is mindful of the needs of people with disability and its legal obligations to take their interests in to account. Accordingly, due weight will be attached to the special needs of disabled persons during the decision making process relating to any application for a footway crossing. If the needs of a disabled person are considered to justify the installation of a footway crossing as a matter of necessity then this consideration may outweigh any other considerations for refusal

30. Right of Appeal:

- 30.1 Where applications do not conform to the criteria, applicants will be informed in writing of the reasons for refusal.

- 30.2 Unsuccessful applicants who believe their applications have not been processed in accordance with the criteria set out in this policy will have the right of appeal.
- 30.3 Details on how to appeal can be found on the Council's website, www.lbbd.gov.uk/droppedkerbappeals