

# VERGE PARKING REPORT BY: LOCALISM AND CUSTOMER SERVICE TEAM ESSEX COUNTY COUNCIL

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## Background

Parking on grass verges can create significant problems for residents, Highway users and the County Council. Grass verges adjacent to the carriageway form part of the public Highway and therefore come under the responsibility of the County Council as the Highway Authority. It should be noted however that in the case of roads where there was or is District Council housing stock, it is often the case that the large green areas are the responsibility of the District Council's Housing Department.

As the Highway Authority, it is the Council's responsibility to maintain safe and unobstructed verges, particularly at junctions to ensure clear visibility for road users.

It is not an offence to park on footway or verges, unless the location results in an obstruction, is a contravention of a Traffic Regulation Order (TRO), or if there is a byelaw in force prohibiting it. In these instances, the matter would be referred to the local police or to the Council's parking enforcement, depending on the contravention.

It is an offence for HGVs to park on all footways or verges, irrespective of waiting restriction, as per Section 19 of the Road Traffic Act 1988. An HGV (or heavy commercial vehicle) means any goods vehicle that has an operating weight exceeding 7.5 tonnes. In this instance enforcement can be undertaken by the local Police

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## Traffic Regulation Orders (TROs)

Any restrictions shown by the kerbside (i.e. yellow lines and signs) apply to the whole width of the public highway, up to the boundary of the adjacent properties including verges, unless otherwise stated in the TRO. Whereupon enforcement is a matter for the District Council as enforcement authority under the Traffic Management Act 2004 within its parking and network management policies

If parking on the verge is deemed acceptable or appropriate, but needs to be restricted on the carriageway, a TRO can be drafted to exclude the verge so that the restrictions affect only the carriageway. However, each case is considered on its merits.

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## Statutory Provisions

A particular incident of verge parking may be considered dangerous, obstructive or of causing damage and as such it 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 (Construction and Use) Regulations 1986;**  
Vehicles 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.

**Section 131(1)(c) Highways Act 1980;**  
Deposits anything whatsoever on a highway so it would damage the highway

Allegations concerning any of the above possible offences would be a matter for the police to investigate and enforce.

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## **Bollards/posts**

Bollards/posts and verge marker posts are only effective when their need is respected. Widespread installation, plus maintenance needs would have significant resource implications for the Council and is not sustainable. Consideration also needs to be given to the diverting of the parking problem to other areas, as can often happen when implementing restrictions such as bollards or TROs There is often little that can be done about this, although care must be taken to ensure that any measures are equitable.

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## **Intervention level for repairs to verges**

Sunken area adjacent to and running parallel with carriageway edge	Depth 150mm
Sunken area adjacent to and running parallel with footway edge	Depth 100mm
Obstruction	Obstruction present (comply with Policy Practice Note 13, attached)

Extracted from Essex Highways Maintenance Strategy 2008

Where road safety is not significantly compromised, parking on verges has to be seen as a low priority especially in light of reduced maintenance budgets.

**HIGHWAYS DEPARTMENT – NETWORK POLICY**  
**POLICY PRACTICE NOTE**

**SUBJECT: GUIDELINES FOR ACCEPTANCE OF OBSTRUCTIONS**  
**PLACED ON VERGES BY FRONTAGERS**

TPN/13

1 September 1993

The County Council's General Purpose Sub-Committee on 4 March 1993, approved a policy for dealing with obstructions on Highway Verges. Set out below are the circumstances in which, under this policy, it is not necessary to seek the removal of obstructions on verges.

1. Obstructions must be maintained so as to be clearly visible both by day and by night and preferably be painted white.
2. In order to allow vehicles to pass each other, and allow safe clearances. There must be a minimum distance from the edge of the surfaced carriageway to the roadside edge/face of the obstructions as follows:-

0.5m for carriageways wider than 4.5m

1.0m for carriageways 4.5m wide or less (but subject to the overall width available for vehicles being at least 5m where overall highway width is sufficient to allow this)

3. If there is no footway but only a verge, the obstructions must not reduce the width available for pedestrians to less than 1.0m
4. There must be a minimum clear space longitudinally of 2.0m between obstructions to allow pedestrians, cyclists, or horse riders to move on to the verge should they wish to do so.
5. Obstructions must be of a reasonable size in the context of the location and neither too large, nor too small with regard to visibility, as required by 1. above. The dimensions should be within the following limits:-

Height	150 to 500mm
Width	200 to 500mm
Length	200 to 500mm

6. There must be no sharp corners on, or projections from, the obstruction which may cause hazard to any user of the highway.
7. Obstructions must be stable and firmly positioned, but not fixed or sunken into the ground.
8. Due to the presence of the obstructions it will not be possible the Council to cut the grass with its normal equipment. Therefore the frontager will be responsible for maintenance of the section of verge, as required by 1. above, which is inaccessible due to the obstructions. An appropriate licence to cultivate the verge will be issued by the Council.

9. Compliance with the above will not detract from the rights of the Highway Authority, under Section 143 of the Highways Act 1980, or under any other relevant power to require removal of any obstruction placed on the public highway.
10. The Council reserves the right to revise these Guide-lines at any time.

Obstructions on verges which do not meet these criteria and in the opinion of the Local Highway Manager represent a serious and immediate danger to highway users should be removed without delay.

Where obstructions of verges do not meet these criteria and do not in the opinion of the Local Highway Manager, represent a serious and immediate danger to highway users then their removal should be sought in the following way:-

- (i) A letter to the frontages seeking to establish their responsibility for the placing of the obstruction and requesting their removal within a period of 3 weeks.
- (ii) If the obstructions are not removed within the period specified then details of the case, including a copy of the initial approach and any reply should be forwarded to the County Secretary with a request for a notice to be served under Section 149 of the Highways Act 1990
- (iii) If the obstructions are not removed within one month of the serving of this notice the Local Highway Manager may remove the obstruction and recharge the frontager the cost of removal.

Where complaints about obstructions on the verge are received, Local Highway Managers should establish whether the above criteria are met. If they are not then action should be taken as above. If the installation does meet the criteria then the complainant should be advised of the County Council policy and the reasons for it as set out in the County Surveyor's report to the General Purposes Sub-Committee of 4 March 1993 (Report No HI/605/93). If however the complainant insists on removal then notwithstanding the above criteria, action to seek the removal of the obstruction should be taken.

COMPILED BY..... DATE 1/9/93  
APPROVED BY (UNIT MANAGER).....DATE 3/9/93  
AUTHORISED BY (PM)..... DATE 6/9/93

Amended 1 October 2000