
REPORT TO:	ENVIRONMENTAL DEVELOPMENT SERVICES	AND AGENDA ITEM: 7
DATE OF MEETING:	29th January 2008	CATEGORY: RECOMMENDED
REPORT FROM:	DIRECTOR OF SERVICES	OPEN PARAGRAPH NO:
MEMBERS' CONTACT POINT:	JACK TWOMEY (5856)	DOC:
SUBJECT:	PARKING ON GRASS VERGES – ENFORCEMENT OPTIONS	REF:
WARD(S) AFFECTED:	ALL	TERMS OF EDS 13 REFERENCE:

1.0 Purpose of Report

1.1 To advise members of the options in dealing with vehicles advertised for sale on road sides and grass verges in South Derbyshire.

2.0 Recommendations

2.1 That the Head of Environmental Services be asked to write to Derbyshire County Council and request their serious consideration for the introduction of enforceable restrictions to address parking on their verges.

3.0 Detail

3.1 Vehicles advertised for sale, via the use of a sign affixed to their windows, is a common method of selling, and under normal circumstances should not cause any particular problems to others.

3.2 However, it is natural that any seller will want to display their car(s) at as prominent a location as possible, and where a number of sellers have the same idea, the area in question can soon start to look like a car lot, which is unsightly.

3.3 Furthermore, where cars are parked for sale on grass verges, and left for long periods of time, grass cutting operations often have to work around them, which leaves a patch of long grass when the vehicle is eventually moved.

4.0 Enforcement options

Nuisance Parking Offences

4.1 The Clean Neighbourhoods and Environment Act 2005 provides powers for dealing with what the Act describes as "Nuisance Parking".

- 4.2 Section 3 of the Act relates to exposing vehicles for sale on a road, which it might be thought would be ideal for our purposes. However, under the Act it only becomes an offence if there are two vehicles parked within 500 metres of each other from the same seller and they are being sold in the course of a business. Under the circumstances outlined, a fixed penalty notice can be served. However, the vast majority of cases will not allow for this course of action due to the seller being private and/or the being sold by different people.

Abandoned Vehicles

- 4.3 The Refuse Disposal (Amenity) Act 1978 provides powers to remove and dispose of abandoned vehicles.
- 4.4 Unfortunately, even if a vehicle is situated on land owned by the Council, it cannot be considered “abandoned” if it is taxed. It is unlikely that a seller leaving a vehicle for sale on a road or verge would risk their vehicle being towed by not taxing the vehicle, but this is a potential course of action for the few untaxed vehicles.

Trespass

- 4.5 If vehicles are parked on grass verges which are not owned by the vehicle owner then technically, the vehicle is trespassing on land owned by another party. That other party may issue proceedings for trespass in the County Court but a few weeks may elapse before the matter would be heard in court and by that time the vehicle may no longer be parked on the grass verge. It should be noted that a court fee has to be paid upon issue of any proceedings in the County Court and once paid, it cannot be returned if the matter is subsequently withdrawn prior to the court hearing date.

Council Policy

- 4.6 It would be possible, as with many private car parks, to take a new Policy on parking on grass verges to Committee and get approval for clamping or towing vehicles under these circumstances.
- 4.7 Under any such Policy it would be prudent to create a process whereby a warning notice was affixed to vehicles for a set period before the actions, whether clamping or towing, take place.
- 4.8 Space would have to be made available at the Depot for vehicles to be stored or a contract with a suitable firm entered into.
- 4.9 The Policy would have to identify the land to which it relates, and herein lies one of the problems with this approach – much of the land which is affected by the parking of vehicles for sale is in fact not owned by SDDC. Much of the land is Highways land and as such is effectively managed by Derbyshire County Council and so it should be County that create and enforce any Policy.

Decriminalised Parking Enforcement

- 4.10 In early 2009, responsibility for the powers previously exercised by the Police (through Traffic Wardens) for enforcing on-street parking (yellow lines, waiting restrictions, loading bays, disabled bays etc.) are to be transferred to the County Council.

- 4.11 It is possible that, via a Policy on parking on grass verges developed by the County Council, enforcement could be carried out by these Wardens.

5.0 Conclusions

- 5.1 There are a number of options when trying to address the problem of vehicles being parked for sale on grass verges.
- 5.2 The best option for dealing with these vehicles on SDDC land would be to create a Policy on such vehicle parking and enforce it. This would inevitably have a cost element though it is possible that much of this would be recoverable via charges made to the vehicle owner for the vehicle to be returned to them.
- 5.3 It is likely that many of the most significant areas which attract vehicle sellers are not SDDC land but in fact managed by Derbyshire County Council. Now is perhaps an appropriate time to request that DCC consider extending the powers of Parking Enforcement Officers who are due to take over from Police Traffic Wardens early in 2009. However, this would have to be led entirely by DCC.