

## LONDON BOROUGH OF WALTHAM FOREST

### DOMESTIC VEHICLE CROSSOVER POLICY

This policy deals with applications for and the criteria applicable to domestic vehicle crossovers

#### **What is a vehicle crossover?**

These are constructed crossings over the publicly maintainable footway or verge that allow vehicular access to premises adjoining the public highway.

#### **General Principles for Vehicle Crossovers**

Application for vehicle crossovers on property frontages should comply with the principles set out below.

- a) There should be no adverse effect on road safety, passage of pedestrians, or free movement of vehicular traffic along the highway.
- b) There should be sufficient room between the property and the back of the footway to accommodate a vehicle comfortably without it overhanging the public highway.
- c) There should be no adverse impact on existing parking arrangements.
- d) If street furniture, trees (healthy trees are unlikely to be removed or relocated) or statutory undertakers' equipment need to be removed or relocated, the applicant will be responsible for the full cost.
- e) Wherever practical, new crossings should be constructed with a surface that matches the adjacent footway.
- f) Wherever practical, existing crossings in footways undergoing major maintenance should be resurfaced to match the new footway surface.
- g) Applicants will be charged an application fee plus the full construction cost of the crossing.
- h) Approved crossings will be constructed using the Council's term contractors unless the crossing is part of an approved new development.
- i) The required garden/driveway depth should be a minimum of 4.8m and this will be used to assess the suitability of a property for a vehicle crossing.
- j) Enforcement action may be taken against vehicle owners who drive over footways or verges where a properly constructed vehicle crossover is not in place.
- k) In line with London Fire Brigade guidance and advice to ensure clear access or egress in the event of an emergency a vehicle crossover cannot be constructed directly in front of the main access to the property i.e. the front door or porch door.

#### **The Law**

Section 184 of the Highways Act 1980 empowers the Highway Authority to regulate access to and egress from premises adjoining a public highway by requiring the construction of vehicle crossings. Every application is considered on its own merits and the Highway Authority is entitled to use its discretion to decline applications.

**There is no appeal process under the Highways Act 1980.**

Under Section 184(5) in determining whether to exercise their powers a Highway Authority must have regard to the need to prevent damage to a footway or verge, and in determining the works shall also have regard to: (a) the need to ensure, so far as practicable, safe access to and egress from premises; and (b) the need to facilitate, so far as practicable, the passage of vehicular traffic in highways.

As per the case of *R. v. Kensington and Chelsea RLBC, ex p. Eminian (2000)*, other factors can also be considered.

### **Planning Permission,**

If an application for a vehicle crossing is to allow access to or egress from a Principal or Classified Road, then planning permission is required under the Town and Country Planning Act 1990.

Planning permission is also required:

- if the property which is the subject of the vehicle crossing application serves more than one dwelling; or
- if the property is situated in a Conservation Area; or
- the property involved is a listed building; or
- the hard standing does not comply with the Town and Country Planning (General Permitted Development) Order 1995 (as amended); or
- permitted development rights have been removed

### **Property Frontage/Permeable Hardstanding**

Vehicle crossover applications will generally only be granted where there is a suitable permeable hardstanding in place that complies with this policy as detailed below.

- the hardstanding should not be surfaced in loose material, such as unbound gravel (less than 20mm nominal size), that could migrate onto the public highway. If unbound gravel greater than 20mm is used, there should be a 1 metre border installed at the threshold to prevent migration.
- Water should not drain onto the highway. The hard standing should therefore be constructed with a fall back towards the property, draining to a soak away or into soft landscaping such as grass or a garden border. Alternatively, if the hard standing falls towards the highway, a drainage channel connected to a soak away or soft landscaping should be provided at the highway threshold.
- 50% of the front area of the property should have soft landscaping. Soft landscaping means all soil-based areas where surface water can soak into the ground and will include grass lawns, flower and shrub borders/beds but will not include flower or shrubs that are encased in tubs, etc. Where a water butt is installed in the front area to contain surface water from downpipes the area that the water butt occupies can be included within the 50% requirement.
- Where permeable material is placed on a non-permeable base it will generally not be classed as a permeable surface for the purposes of this policy

- A surface water test should be carried out in the presence of a highways officer to ensure that the permeability or drainage/soak away is satisfactory prior to the construction of the crossover being undertaken, to ensure that all surface water is retained within the property boundary

An application for the extension of an existing crossover should also comply with this guidance.

Where a vehicle crossover is provisionally approved then the property frontage should be completed in accordance with this policy within 3 months of the approval letter. The approval is conditional upon these works being undertaken. A further inspection will then take place to check this and to ensure that no changes have taken place that may negate the installation. If such changes are found or the works haven't been undertaken, then the application could then be refused.

**Applicants are required to confirm whether their hardstanding is permitted development i.e. that it uses permeable surfacing or, if not, that relevant planning consent has been obtained.**

**Any frontages found to be in contravention of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) will be referred to the Planning Enforcement Team for investigation.**

#### **Siting Issues - Trees**

Applications will be determined in line with the Council's Tree Strategy which indicates that generally a healthy tree will not be removed for the installation of a vehicle crossing.

No part of the vehicle crossing's construction should be less than **two metres** from the base of a tree.

In the case of a tree subject to a preservation order, the application is likely to be refused.

#### **Siting Issues - Street Furniture and Other Apparatus**

Where street furniture needs to be removed or re-sited the applicant will be responsible for the full cost of the necessary works. This applies to statutory undertakers' apparatus as well as the Council's street furniture, including items such as lighting columns, bollards, signposts, and inspection covers.

It may not always be possible either logistically or for reasons of safety to remove or relocate the item of street furniture or apparatus. In these cases the application is likely to be refused.

#### **Siting issues - Front Garden/Driveway Depth.**

As set out above a garden or driveway should have a minimum depth of 4.8m (15ft 9ins). This is measured from the bay window/front wall or furthest forward protrusion from the property frontage of the property to the nearest point of the footway at the location where the vehicle is to be parked.

If an applicant is granted a vehicle crossing and subsequently parks larger vehicles on the garden or drive, they will be liable to prosecution for obstructing the highway and/or other action detailed in the legal agreement section below.

## **Siting issues - Dimensions, position, gates, and gradients**

There should be a maximum width for vehicle crossings of 4.5m at kerbside and 3.5m at the property boundary. This does not prevent owners of larger properties from having two crossings, provided that a minimum length of 4.8 metres of un-dropped kerblines remains between them. In addition, such applicants are likely to be required to erect a wall or fence parallel to the kerblines and between the two entrances should one not already exist.

The design of the crossing's widest dimension at the kerb edge should not extend beyond the line of any boundary of the applicant's property. To maintain clear access to the property in the event of an emergency, the parked vehicle should be at a right angle to the property's frontage and at a minimum of one metre from the edge of any door of the property.

Under Section 153 of The Highways Act 1980, gates fitted across the entrance to a property may not open outwards across any element of the public highway.

On safety grounds, no gates are likely to be permitted on crossovers constructed on Principal roads.

The local gradient of the public highway itself and that between the highway and property frontage will be considered by the Council and may necessitate refusal of the application on the grounds of safety and practicability of use.

No part of a vehicle crossover should be sited directly in front of the normal access to the property i.e. front doors or porch doors, in line with London Fire Brigade advice, to ensure that a clear access and egress route remains in case of emergencies.

## **Siting issues - Grass verges**

To preserve the amenity and appearance of the vicinity applications will not normally be granted for a crossing over a highway verge or similar amenity more than 3 metres wide.

## **Siting issues - Adverse effect on parking arrangements**

The Council may reject an application for the construction of a vehicle crossing when this would have an adverse effect on the safe and efficient operation of existing parking arrangements, for example CPZs and laybys. The loss of more than one on-street parking space is considered to be an adverse impact. Such applications would be referred to the Head of Parking or the Traffic Management Team for comment. Costs of any consequent amendments to Traffic Orders would be borne in full by the applicant.

## **Legal Agreement**

Where a vehicle crossover application is granted the applicant **is required** to enter into a legal agreement with the Council which will include, but is not limited to:

- not to park or allow to be parked any Vehicle or other obstruction whatsoever on the Crossover or the Public Footway.
- not to allow any Vehicle to overhang any part of the Crossover or the Public Footway whatsoever.
- to be responsible for ensuring that surface water from the Owner's Parking Area does not discharge onto the Crossover or Public Footway or the Highway.

- to ensure that the Property's frontage consists of at least 50% soft landscaping to assist in the drainage of surface water.
- to ensure that the Owner's Parking Area has been constructed within the boundaries of the Owner's Property in accordance with plans and specifications previously submitted and approved by the Council.
- to ensure that the Owner's Parking Area has been constructed from materials that will not cause loose material to be carried onto the Crossover or the Public Footway or the Highway.
- to ensure that requirements contained in the Town and Country Planning (General Permitted Development) Order 1995 are met.
- if applicable, to provide to the Council copies of any planning permissions required in constructing the Owner's Parking Area.

Failure to adhere to the legal agreement will mean that the Council at its election can either remove the vehicle crossing and reinstate the footway or alternatively execute such works as are necessary to prevent vehicles from being taken across the vehicle crossing (see ii below re costs of works)

The Agreement is made pursuant to section 16 of the Greater London Council (General Powers) Act 1974 and is enforceable against an applicant and their successors in title. It is also registered as a local land charge.

## **Enforcement**

### **(i) Where there is no vehicle crossover in place, but unprotected footways and verges are unlawfully being crossed by vehicles**

A majority of residents wishing to gain access to their properties arrange for the Council to make a properly constructed vehicle crossing for them. However, there remain a minority who continue to drive over unprotected footways and verges. This is unlawful and can damage footways and kerbs, making them dangerous for pedestrians and other road users. Enforcement action will be pursued where the Council is made aware that vehicles are being driven across unprotected footways.

Under section 16 of the London Local Authorities and Transport for London Act 2003, which has been adopted by the Council, a notice may be issued 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. If the occupier should fail 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 and may recover the expenses reasonably incurred by them in doing so from the owner or occupier of the relevant property.

In many circumstances it will be a criminal offence to drive a vehicle on a footway.

### **(ii) Where vehicle crossover in place but legal agreement is not being complied with**

Where the terms of a vehicle crossover agreement are not being complied with, the Council can either remove the vehicle crossover or put measures in place to prevent the use of the crossover and recover the expenses reasonably incurred by them in doing so from the owner or occupier of the relevant property.

It is also criminal offence punishable by a fine not exceeding level 3 on the standard scale for any person to use a vehicular crossing, or knowingly to permit one used, in contravention of any condition imposed on its use under section 184(1)(b) Highways Act 1980.

**(iii) Where damage is caused to a vehicle crossover**

Domestic vehicle crossings may only be used by a private/light goods vehicle not exceeding 3,500kg. They are not designed to be driven over by heavy goods vehicles or mechanical equipment. If a delivery, such as a skip, is made into a property, and in doing so damages the highway of which the crossover is a part, the full cost of carrying out all essential repairs will be the responsibility of the owner or occupier of the property.