

Southend-on-Sea Borough Council

Agenda
Item No.

17

Report of Director of Place

To

Cabinet

On

11 November 2014

Report prepared by Peter Geraghty
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Review of Permanent Vehicular Crossing Policy

Executive Councillor: Councillor Martin Terry

A Part 1 Public Agenda Item

1. Purpose of Report

The report seeks Members agreement to the revised Permanent Vehicular Crossing (PVX) Policy following consideration by Place Scrutiny members as part of pre-cabinet scrutiny. It deals with the amended Permanent Vehicular Crossing (PVX) Policy, revised application eligibility criteria, procedures and process following the outcome of a review of the existing service.

2. Recommendation

That Members agree the revised Permanent Vehicular Crossing Policy process procedures as set out in appendix 1 of this report.

3. Background

Currently residents and businesses in the borough can apply to the Council for the construction of a PVX to their property. In all cases this requires the consent of the Highways Authority. Depending on the circumstances they may also require separate planning permission. This report deals with the highways application process only.

3.1 The current policy for PVX applications was agreed by Cabinet in March 2013 following consideration by Traffic and Parking Working Party in March 2013 acting as Pre-cabinet Scrutiny. the approach was agreed by Economic and Environmental Scrutiny Committee in April 2013.

3.2 The report was considered by the Place Scrutiny on the 13 October 2014 acting as Pre-cabinet Scrutiny and the following issues were raised:

- The possibility of to the removal of trees so long as they are replaced 2 for 1.
- The exceptional circumstances applications could be decided by Members on a simple majority.

- Whether it would be possible for special circumstances to be considered by Cabinet Committee.
- Should any provision or exceptions be made for electric cars in policy?
- How would the balance between on and off-street parking be assessed.
- Need for consistency and transparency in terms of applying special circumstances.
- Some clarification in the use of terminology and definitions.

3.3 The policy has been amended to clarify or include some additional wording on the points raised by Scrutiny. On consideration of the other issues it is not proposed to make any further alterations to the policy as the matter of how special circumstances can be treated within the context of the policy as it is currently proposed. For example, it would be possible to present a case under very special circumstances in cases where a street tree was affected. The onus would be on the applicant to demonstrate why removal of a tree would be acceptable, particularly in the context of the Council's commitment to preserving its street trees. Furthermore, it is considered that no special provision should be made for electric cars because the criteria against which proposals are assessed relate to public and highway safety matters.

3.4 It is not considered an appropriate process for consideration by cabinet committee because special circumstances would apply to specific sites and on a case by case basis local ward members are best placed to evaluate such site specific cases. Decisions made on such applications can be recorded on the application case file explaining the reasoning.

4. The Current Process

4.1 Applications can be made either electronically or via a paper application form. The application must be accompanied by scale drawings (of specified scale) showing the location and size of the proposed PVX and an appropriate application fee. Applications for works that have already been refused planning permission will not be accepted. Where planning permission is needed applicants will be required to make a planning application under planning legislation and only when planning permission has been granted would an application for highways consent be accepted.

4.3 Currently applications for a PVX are considered against the minimum criteria as set out below:

- A proposed PVX must not be within 10m (15m in the case of major roads or busy junctions) from a junction with high pedestrian movements;
- A proposed PVX must not be located on a bend where there is inadequate visibility resulting in danger to users of the public highway (with the exception of low usage cul-de-sacs);
- A proposed PVX must not result in the need to remove or relocate a lamp column or other street furniture that has an electricity supply. Non-electrified street furniture will be considered on a case by case basis;
- A proposed PVX must not result in the need to remove a highway tree;
- A proposed PVX must not result in the need to amend an existing Traffic Regulation Order (TRO) - (e.g. the removal of loading or parking restrictions);

- For any other tree in the immediate vicinity of the PVX appropriate root protection must be provided in accordance with British Standards, (i.e. BS 5837:2012);
- Only a length of highway verge may be removed to accommodate a proposed PVX, equivalent in length to the proposed width of the PVX;
- A proposed PVX shall not be acceptable if it results in a gradient steeper than 10%. This applies to the gradient of the PVX and the gradient of the parking area where it slopes towards the public highway.
- The proposed parking area must be constructed so as to ensure water does not drain on to the highway.
- The minimum size of parking area on the property frontage needed to park one car is as set out in the table below:

Minimum Size	Depth	Width	Width of Dropped Kerb
Classified Roads*	8m	8m	Variable
Unclassified Roads - Right Angle Parking	4.8m	2.4m	2.44m
Unclassified Roads - Parallel Parking	2.6m	6.5m	3.66m

* a vehicle must be able to turn in a space equal to or greater than 8m by 8m and in no more than a 'three point turn' i.e. forwards/backwards/forwards should be necessary.

- 4.5 Applications that involve the removal of street trees or existing TROs to be amended (removing regulated lines etc.) are not permitted. The PVX process also enables the applicant to select a contractor rather than use a single contractor appointed by the Council.
- 4.6 If the application meets the criteria and consent under highways legislation is granted (consent inures for a year) the customer chooses a contractor from an approved list (which is maintained by the Council) and negotiates a price and work schedule to carry out the work.
- 4.7 If the application fails to meet the criteria then highways consent is refused against which there is no right of appeal.
- 4.8 A Council engineer will carry out the necessary site inspections throughout the various stages of the process to ensure compliance with eligibility criteria, specifications, workmanship and materials. When the work is complete the Council will carry out a final inspection and if acceptable will issue a 'PVX Completion Certificate'. Once the Council issues this Certificate to the applicant, they will be in a position to make final payment to the contractor that they have chosen from the Approved List to carry out their work.
- 4.9 Under the current procedure the customer will be able to select a contractor from an approved list. In order to make it on to the approved list the contractor will have to meet a set of selection criteria and the procurement conditions for the selection process. As part of the selection process contractors will be made aware that

failure to meet selection criteria or poor workmanship will mean that they potentially will be removed from the approved list. The procurement details for contractors set out clearly the responsibilities and liabilities in respect of the works to the public highway. The responsibility for managing the public highway remains with the Council. Where work is assessed by the Council's engineer as not being of an appropriate standard it will not be granted a PVX Completion Certificate and the owner will need to pursue this with the contractor directly.

4.11 Appendix 1 sets out the Council's PVX policy. The policy and process has worked very successfully and has brought consistency and clarity for customers and service users. However there are some minor changes proposed to the policy to address some issues that have been raised during its operation. **The main issues and changes to the Council's PVX Policy are broadly outlined below:**

- There is no right of appeal against the decision to refuse a PVX application. The reason for this is that the consideration of an application is based on technical requirements. It is proposed to introduce a mechanism that allows an applicant at the outset to present exceptional circumstances that they wish to have taken into account should the application fail to meet the minimum criteria. These exceptional circumstances will then be considered by the Group Manager for Highways and the ward Councillors. All ward councillors need to agree to the exceptional circumstances case for the application to be approved contrary to the criteria.
- The fee for applications included a proportion to cover the cost of site inspections. In cases where applications were refused the inspection didn't take place. It is proposed in the future, to have a tiered fee structure which is staggered. The first tier will cover the cost of the consideration of the application and the initial site assessment. The second tier will cover additional costs for applications where exceptional circumstances are being presented. The final tier will cover the cost of inspections and associated work for proposals that are approved. That way the applicant only pays for that element of the service that he or she uses. The first tier will be £125, exceptional circumstances fee will be £175 and the fee for inspections will be £75. In comparison to the current flat fee of £200.
- The use of turntables will not be permitted. The reason for this is that once installed it is not possible to control or insist upon their use when installed which could lead to inappropriate parking of vehicles resulting in an increased safety risk.
- Access to properties must have a visibility splay of 1.5m by 1.5m on both sides on secondary distributor roads or higher classifications. This is necessary to ensure safe access and egress and to meet the requirements of the Council's adopted Design and Townscape Guide.
- The maximum width of PVXs will be 3.66m and 4.8m. This is necessary so as not to adversely affect the availability of on street parking. It is also important to ensure that pedestrians, people with disabilities or of a vulnerable nature such as children are not put at risk on the footpath.

- Separate 'In-Out' crossings will only be permitted in circumstances where the level of the on-street parking is not adversely affected and it will not give rise to conditions detrimental to highway safety.
- A PVX must be sited entirely within the curtilage of the property to which it serves (exception; when adjacent properties want a shared drive and a crossing to serve both sites).
- Any request granted for a permanent vehicle crossing that requires private development works (i.e. to remove a wall or fence) to facilitate the use of the crossing is subject to those works being carried out at the same time as the construction of the PVX. Should the private works not be undertaken we as the Highway Authority may remove the right of access and re-instate the footway and all reasonable costs are to be recovered from the applicant.
- It is proposed to allow the relocation of lighting columns on the proviso that the full costs of relocation and reinstatement is borne by the applicant and the coordination of the work between the utility company and the contractor is managed by the applicant.

4.14 These proposed changes introduce a degree of flexibility whilst retaining the key features of the process which has worked well to date. The other criteria for parking sizes were originally amended to align with the Council's adopted Design and Townscape Guide and it is not proposed to make any changes to these. These are minimum recommended sizes that enable a standard vehicle to manoeuvre so as to enter and leave the site safely.

5. Other Options

5.1 Should the Council not agree to the revised Policy then there is an option to continue with the system that currently exists.

6. Reason for Recommendation

6.1 The benefits that will arise from the proposed changes will be an applicant that feels they have exceptional circumstances have the opportunity to present those for consideration by members. The change in the fee structure will also give more flexibility. The substance of the process has worked well and does not require any other changes. It has the benefit of allowing increased involvement of the applicant in the process.

6.2 The application criterion by which a request is assessed is clear this ensures a consistent judgement is applied at all times and in line with statutory requirements. However, the proposed changes allow for exceptional circumstances to be considered should the applicant consider that they exist.

7. Corporate Implications

7.1 The revised policy and procedures will be instrumental in a more efficient and effective assessment of applications and therefore meets the aims of the Council's vision including:

- Clean, ensuring a well maintained and attractive street scene, parks and open spaces
- Prosperous, enable well planned quality developments that meet the needs of the Southend residents and businesses
- Excellent, deliver cost effective, targeted services that meet the identified needs of our community

7.2 Financial Implications

The new PVX process provides for the tiered payment of fees.

7.3 Legal Implications

The proposed policy and approach enable the Council to comply with its statutory duty under Section 184 of the Highways Act 1980 (11) in a more effective and efficient manner. There are no other significant legal implications.

7.4. People Implications

The need for considering exceptional circumstances and administration of tiered fees will require additional input from officers which will be met from existing resources.

7.5 Property Implications

There are no property implications as a result of this report.

7.6 Consultation

- 7.6.1 Feedback from members and service users has been taken into account in undertaking the review. In addition the revised policy was considered by Place Scrutiny members on 14 October 2014 as part of pre-cabinet scrutiny. The minutes of Scrutiny are listed below as background papers.

7.7 Equalities and Diversity Implications

- 7.7.1 Everyone is provided with equal access and opportunity to make an application. The service is primarily available via the Council's Website. An electronic application can be made or relevant paper copies are available to download and/or print. Where access to our online service is unavailable, paper copies can be posted upon request.
- 7.7.2 Where an application is to create access for a disabled person living or intending to live in the premises the application fee is exempt, (all other costs relating to construction will remain the responsibility of the applicant).
- 7.7.3 The maximum widths of PVXs ensure that pedestrians, people with disabilities or of a vulnerable nature such as children, visually impaired are not put at risk whilst using footpaths in the borough.

7.8 Risk Assessment

There are no risks associated with the new policy.

7.9 Value for Money

The proposed new process will improve value for money.

7.10 Community Safety Implications

It is important that any procedure provides an outcome that does not lead to situations detrimental to pedestrians or highway safety. The new process will lead to better outcomes and decisions.

7.11 Environmental Impact

The proposed process and criteria aim to strike a balance between a request for a permanent vehicular crossing and the need to clearly and decisively protect the environment specifically having regard to the protection of all existing highway trees and shrubs as well as the general street scene.

8. Background Papers

8.1 Design & Townscape Guide

8.3 Streetscape Manual

8.2 Highways Act 1980

8.3 Relevant minutes of Place Scrutiny held on 14 October 2014

9. Appendices

9.1 Appendix 1: PVX Policy and associated Application Guidance

9.2 Appendix 2: PVX Application Form