

**Report to CABINET**

## **Light Duty Vehicle Crossings Policy**

**Portfolio Holder:**

Councillor Fida Hussain, Cabinet Member for Environmental Services

**Officer Contact:** Executive Director Economy, Skills and Neighbourhoods

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**Ext.** 2049

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### **Reason for Decision**

To approve a Light Duty Vehicle Crossings Policy

### **Executive Summary**

This policy seeks to formalise the Oldham Council's procedures for assessing Light Duty Vehicle Crossing applications and to ensure that they are assessed in a consistent and fair manner.

### **Recommendations**

To approve the new Light Duty Vehicle Crossings Policy

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## Light Duty Vehicle Crossings Policy

### 1 Background

- 1.1 It is unlawful to drive a motor vehicle over the kerb and across the footway (commonly known as the pavement) in order to gain access to premises where there is no dropped crossing to allow this. This is an offence under section 34 of the Road Traffic Act 1988 and section 72 of the Highways Act 1835. Furthermore Rule 145 of the Highway Code states: "You MUST NOT drive on or over a pavement, footpath or bridleway except to gain lawful access to property, or in the case of an emergency."
- 1.2 Under Section 184 of the Highways Act 1980 a person may apply to the highway authority (in this case Oldham council) for a Light Duty Vehicle Crossing (LDVC) to enable them to lawfully access their property. There is no right to the provision or widening of an LDVC to provide driveway access to premises, it is at the discretion of the highway authority as to whether such a crossing should be allowed.
- 1.3 In determining whether to exercise the powers under Section 184 of the Highways Act, the Council will have regard to the need to prevent damage to a footway or verge and will also have regard to the need to ensure, so far as practicable, safe access to and egress from premises and the need to facilitate, so far as practicable, the passage of vehicular traffic in highways.
- 1.4 Oldham Council will normally allow such crossings except where provision or widening will cause demonstrable harm to highway operation, safety or the amenity of the street.
- 1.5 This policy specifies how Oldham Council will deal with applications for the provision of or widening of LDVCs to a single dwelling, commonly known as dropped kerbs or dropped crossings, and has been written to:
- Meet legal and planning requirements,
  - Ensure that the Council deals with requests in a consistent manner.
  - Ensure construction quality and safety of vehicle dropped crossings.

### 2 Current Position

- 2.1 Oldham Council does not currently have a policy to assess Light Duty Vehicle Crossing applications.
- 2.2 At present applications are assessed on an individual basis with a highways officer deciding whether or not an application should progress.
- 2.3 Applications are rejected where the officer has assessed that it would be unsafe or would cause demonstrable harm to the operation of the highway.
- 2.4 Many residents whose applications are rejected disagree with the decision not to allow an LDVC and complain to the Council through various channels, such as through council officers or elected members.
- 2.5 This proposed policy seeks to define the criteria of when a LDVC request (using the policy) should or should not be permitted for the majority of situations. However,
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occasionally there may be special circumstances unique to a specific street where it would not be appropriate to allow a crossing.

2.6 The policy generally permits the construction of an LDVC except in instances where there are highway safety or engineering reasons as to why it would not be appropriate to allow an LDVC.

2.7 The policy also sets out an appeals process for residents so that they may make representations if they disagree with a decision not to allow an LDVC. In this way any appeals can be managed through a formalised process.

### 3 **Options/Alternatives**

3.1 There are two options available:

#### 3.2 **Option 1**

Approve the new Light Duty Vehicle Crossings Policy.

Advantages to approving the new policy:

- Ensuring that all LDVC applications are assessed in a fair and consistent manner
- Ensuring that LDVCs are not permitted in unsafe or inappropriate locations
- Formalised appeals process for applications

Disadvantages:

- Conflict with residents where similar crossings (e.g. a neighbour's) were previously constructed, but their property does not meet the new requirements

#### 3.3 **Option 2**

Retain existing practices – working to no policy

Advantages

- Current working practices retained

Disadvantages:

- Inconsistent appeals process
- Pressure on officers and members to allow a crossing where there is no policy to support a decision that has been made.

### 4 **Preferred Option**

4.1 The preferred option is Option 1 to approve the new policy.

4.2 Approving the policy will ensure that applications are managed in a consistent manner and appropriate engineering principles are applied when decisions are made.

### 5 **Consultation**

5.1 Internally the proposed policy has been developed in conjunction with:

- i) Oldham Council Highway Operations
  - ii) Oldham Council Highways Client
  - iii) Oldham Council Development Control & Planning
  - iv) Unity Partnership (Highways)
  - v) Legal Services
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## 6 Financial Implications

### Revenue Implications

- 6.1 Income and expenditure for Light Duty Vehicle Crossings is recorded on cost centre 40350, Highways Operations. Income is offset by expenditure costs which include labour, operational materials, and hired in plant and contractors. Costs incurred are always recovered 100% from the end user based on each individual request.
- 6.2 It is envisaged that a formalised policy for Light Duty Vehicle Crossing applications will not have any significant impact on Highways LDVC related income as the Highways Officer already assesses applications on the basis of “Safety and Operation of the Highway”.

It is possible there may be a slight increase in the number of application refusals with regard to strict adherence to the space requirements for parking areas for vehicles on driveways. However there has been a general increase in applications with more residents requiring off-road parking.

- 6.3 The new policy proposes a consistent, formalised approach and can be referred to in the event of appeals. This may assist in reducing time spent on appeals.
- 6.4 Capital Implications

There are no Capital implications (Sadrul Alam, Finance Manager, Cath Conlon, Accountant)

## 7 Legal Services Comments

- 7.1 Adjoining landowners have a common law right of access to the highway without restriction but this is subject to statutory restrictions, particularly section 184 of the Highways Act 1980. There is a right of appeal to the Secretary of State in relation to the service of a notice under section 184. Introducing a policy would introduce greater certainty into the creation of light duty vehicle crossings, but the Council must not fetter its discretion and all applications must be considered on their merits. (A Evans)

## 8. Co-operative Agenda

- 8.1 Implementing a policy to manage LDVC applications will help the Council achieve its corporate priorities:
- Providing LDVCs will help vulnerable members of the community live independently. Knowing that they have somewhere secure to park their vehicle when they return home and will not have to park some distance away may encourage people to make journeys that they would otherwise not make, thus enabling them to actively engage with the community
  - Adopting the new policy will ensure that LDVCs are installed only in locations where it is appropriate to do so. This will ensure that no additional hazards are created in the footpath for pedestrians and in particular ensure that our footpaths remain accessible for wheelchairs and buggies.

## 9 Human Resources Comments

- 9.1 N/A
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10 **Risk Assessments**

10.1 A consistent approach to Light Duty Vehicle Crossing will reduce risks as a consistent approach will be adopted across decision makers ensuring a consistent approach in line with legislation.

10.2 A Light Duty Vehicle Crossing Policy should reduce the number of unauthorised crossings across the borough and will minimise the amount of pavement damage caused by vehicles using unauthorised vehicles crossing and reduce budget pressures for funding associated repairs and claims. (Victoria Gallagher).

11 **IT Implications**

11.1 No IT Implications associated with this policy paper (Chris Petrie)

12 **Property Implications**

12.1 N/A

13 **Procurement Implications**

13.1 Any subsequent sourcing activity arising from this funding allocation will be procured in accordance with the Council's Contract Procedure Rules. This will include satisfying value for money principles and with due regard to social, economic and environmental factors. (Darren Judge)

14 **Environmental and Health & Safety Implications**

14.1 Planning applications fully assessed to ensure works undertaken does cause an increased risk of flooding to the property and/or local area. (Justine Addy)

Health & Safety – No comments (Laura Smith)

15 **Equality, community cohesion and crime implications**

15.1 A lack of access to off-street parking may become a barrier to effective movement, deterring some people from making the journeys that they might otherwise have made. Access to off-street parking can also reduce the fear of crime as many residents feel their vehicle would be less at risk of theft or vandalism than if parked on the street.

16 **Equality Impact Assessment Completed?**

16.1 N/A

17 **Key Decision**

17.1 Yes

18 **Key Decision Reference**

18.1 ENVS-02-18

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19	<b>Background Papers</b>
19.1	None
20	<b>Appendices</b>
20.1	Appendix A – Light Duty Vehicle Crossings Policy

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