

# VEHICLE CROSSING POLICY

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## 1.0 Introduction

This document identifies Devon County Council's (DCC) policy, as Highway Authority (HA), to regulate the provision of vehicle crossing facilities. A vehicle crossing facility is an area of lowered pavement and kerbs (that is strengthened to take the weight of a vehicle) that provides vehicle access from the carriageway across a footway or verge into a private driveway or parking space.

A review of the previous policy has been carried out and a number of amendments have been made to take account of recent changes to highway design guidance (through the publication of Manual for Streets in 2007) and the introduction of Government 'Guidance on the Permeable Surfacing of Front Gardens' (October 2008).

This policy outlines Devon County Council's requirements regarding the location and construction of domestic vehicle crossing facilities, as well as highlighting a number of related issues, in order to illustrate where vehicle crossings will be permitted and the application process.

Local precedence is not always a factor in considering whether an application should be granted or refused. Many existing footway crossings were approved when traffic conditions were significantly different to today. Policies and assessment criteria change to reflect changing conditions. The circumstances of each application are considered on its own merits and therefore applicants should be advised to seek advice at an early stage in the application process in order to avoid potentially abortive work, and unnecessary costs, for the applicant and Devon County Council.

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## 2.0 Legal Context

A landowner has a common law right of access to the adjacent highway; however, the right of access is restricted by planning and highways legislation. Vehicle access to the public highway is regulated and controlled through the grant of planning permission (through the Local Planning Authority) and by the issue of a Section 184 of Highways Act 1980 Approval Document from Devon County Council as Highway Authority) for the provision of a vehicle crossing facility.

Planning regulations define the circumstances when planning permission is required, as outlined in the following sections. Some applications for a vehicle crossing facility require planning permission, but all applications require permission from the Highway Authority through the issue of a Section 184 Approval Document - i.e. there are circumstances when an application must be made through both the planning and highway approval processes.

The location of a vehicle access and construction of a vehicle crossing facility raise a number of potential highway safety, amenity and maintenance issues.

The Council has statutory duties to protect members of the public through the planning and highway approval processes.

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### 3.0 **Planning Permission**

On classified roads, the common law right of access is restricted by legislation contained in the Town and Country Planning Act 1990, where the formation of a vehicle crossing facility is classed as an engineering operation and is development that requires planning consent. This is in response to growth in the level of traffic, vehicle speeds and the associated accident risk that could potentially result from traffic turning onto and off the road at numerous points.

#### 3.1 ***Planning Criteria***

Planning permission may be required for a vehicle crossing, depending on whether the location or the nature of the proposed works meets certain planning criteria. Planning permission is required where:

1. Vehicle access is proposed to be taken from a classified road.
2. The property is within a Conservation Area where permitted development rights to construct a footpath crossing have been removed by an Article 4 direction.
3. Vehicle access is proposed to be taken from an unclassified road and where provision of an access is required in connection with other works that require planning permission. Previously, in most cases, the provision of an access to an unclassified road, together with a vehicle hardstanding, would not require planning permission. New regulations introduced in October 2008 restrict the size and construction method of hardstandings. Planning consent is required where the area (greater than 5m<sup>2</sup>) of front garden (between the principal elevation of the house and the adjacent road) is to be paved in a non-permeable material. This means that more hardstandings require planning consent and, therefore, more accesses associated with them will also need planning consent.
4. The property is a Listed Building.
5. The property is a multi-occupancy dwelling i.e. divided into flats/maisonettes.

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#### 3.2 ***Planning Application Process***

A planning application may be made by the householder or, if preferred, by an Agent who may, for example, be a consultant, solicitor or the contractor who

would also carry out the works. Guidance on the planning application process and up-to-date details of planning application fees are available on the Local Planning Authority's web site

### **3.3 Planning Approval Process**

Provision of a vehicle access raises a number of planning issues that includes highway safety and potential loss of trees or other amenities in the adjacent highway. Therefore, the grant of planning approval is influenced by comments made by Devon County Council as the Highway Authority who are a statutory consultee of the planning process.

The County Council as Highway Authority may recommend to the Planning Authority to:

- Approve the application as proposed.
- Approve the application, requiring modifications to the proposed works by condition of planning approval.
- Refuse the application.

The final decision rests with the Planning Authority. Applicants should be encouraged to contact the Planning Authority for an informal discussion and advice on their requirements, prior to making a formal planning application. Residents are advised not to arrange for, or commence works (to construct a vehicle hardstanding or to remove a wall, for example) until both planning and highways permission have been obtained.

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## **4.0 Assessment Criteria**

Each application for a vehicle crossing facility will be considered on its merits and the following criteria relating to location and visibility will be used to assess the operation of the vehicle access.

1. Whether the road or street is a classified road and the road type – whether the road is dual or single carriageway and the number of lanes in each direction of travel.
2. Road markings and lane allocation, e.g. operation of Bus Lanes and Cycle Lanes.
3. Speed limit.
4. Proximity to priority junctions, roundabouts, controlled junctions, pedestrian crossing points, and Bus Stops.
5. Minimum parking space requirement. Manual for Streets (MfS) recommends a minimum of 4.8m x 2.4m (15ft 9in x 7ft 10in) in order to cater for the majority of cars without the risk of vehicles overhanging the adjacent footway.

6. Minimum turning space requirement. Whether a vehicle turning area or a vehicle turntable can be provided within the curtilage of the property with sufficient dimensions to accommodate safe and convenient turning manoeuvres for a large car.
7. Extent of on-street parking provision
8. The position of street furniture, trees and other above ground apparatus.
9. Public utility equipment and services within the adjacent highway.
10. Whether visibility along the carriageway is impeded by street furniture, trees, or parked vehicles.
11. Whether pedestrian visibility is impeded by, for example, the height of a wall, fence or hedge along the frontage, or by street furniture or trees in the adjacent highway. To ensure that a driver can see pedestrians, particularly children and visually or hearing impaired people, prior to driving onto the highway.

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#### **4.1 Access Width and Parking Space Dimensions**

The policy should include guidance on the maximum width of a vehicle crossing facility, because the cumulative effect of approving many crossings would diminish the kerb line segregation between the footway and carriageway and thereby increase the risk to pedestrians from vehicles mounting the footway. In most circumstances, a width of 4.8m should be sufficient for a double driveway. In practice, a judgement must be made to ensure that a vehicle crossing is wide enough to provide safe and convenient access and egress to the driveway or parking space.

Experience suggests that where driveways are finished with a loose surface material, this may lead to loose material being spilt onto the adjacent footway and carriageway. This could create potential skid hazards, either for cars skidding exiting the site or pedestrians. Debris spilt onto the adjacent carriageway could also block road gullies. Driveways should therefore be hard surfaced (not loose aggregate or gravel). Residents should also be advised to contact Planning officers for advice on the use of permeable materials. Where the hardstanding is in the front garden and is greater than 5m<sup>2</sup>, the hard surface should be made of either porous materials or the design should allow water to run off from the hard surface to a permeable or porous area within the curtilage of the property.

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#### **4.2 Potential Impact on On-Street and Restricted Parking**

Increased pressure for limited on-street parking facilities throughout the county has led to increased demand for the conversion of areas of front gardens to private off-street parking spaces. This is clearly beneficial to the resident and, taken at face value, the loss of a public on-street parking space (to create a vehicle access) is compensated for by the additional private off-street parking space. However, the cumulative approval of footway crossings could have a

wider impact on the local area in terms of reducing the amount of on-street parking space available for other residents and visitors.

This is a particular issue on streets where there is only limited on-street parking capacity. For example, on narrow width carriageways that allow parking along one side of the road, or because selective Traffic Regulation Orders restrict parking capacity. However, it raises both transport policy and planning policy issues and should be considered within a separate residential parking policy. The potential impact on on-street parking goes beyond the scope of the Domestic Vehicle Crossing Policy.

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#### **4.3 *Equality Act 2010***

In Section 2.7.1 of Manual for Streets it states that local “highway and planning authorities must comply with the disability equality duty under the “Equality Act 2010”.

The policy should be applied equally to both physically impaired and able bodied people because planning and highway restrictions are imposed for highway safety reasons. Highway safety criteria does not make a distinction between physically impaired and able bodied people and therefore the physical impairment should not be a factor in the Highway Authority’s decision.

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#### **4.4 *Trees in the Adjacent Highway***

The assessment criteria must take into consideration the position of any trees that are located in the footway or verge adjacent to the dwelling. For example, whether or not the tree is towards the end of its useful life expectancy or if there are any other exceptional circumstances.

Residents should be advised to include full details of the position of any trees in the adjacent footway or verge that may be affected by the construction of the footway crossing facility or along the footway or verge where a visibility splay will be required.

Ideally, a vehicle crossing facility should be positioned to avoid any trees in the footway or verge. Sufficient clearance should also be allowed to ensure that construction does not damage the tree roots and long term health of the tree. Residents should be advised that, as a general rule, a vehicle crossing facility should be approximately 2.5m from the tree trunk.

Where the Council approves the removal of a street tree, the applicant must meet the full cost of its removal and the cost of providing two replacement trees to be located in the highway.

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#### **4.5 *Street Furniture and Public Utilities***

The assessment criteria must take into consideration the position of any street furniture and public utility equipment, such as a street lighting column or utilities inspection chamber that are located in the footway or verge adjacent to the dwelling. Relocation of street furniture (in order to provide a satisfactory visibility splay, for example) could be covered by condition of planning approval.

The location of any street furniture in the verge must be clearly shown on the Layout Plans submitted as part of the planning application. In order to ensure that the onus is on the applicant to provide clear, up-to-date information, failure to provide accurate drawings would result in the planning application not being made valid and not determined.

The location of utilities in the footway is dealt with as part of the detail design process for a Section 184 Approval. Where the construction of a vehicle crossing requires utility equipment to be relocated, permission must be obtained from the utility company. This is a separate consideration to the planning and highways decision making processes. It is only when the public utility company gives approval that the vehicle crossing facility can be approved.

The full cost of relocating street furniture or utilities must be met by the applicant although residents should be advised that the cost of relocating services or utilities can be significant.

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#### **4.6 Proximity to Traffic Calming Features**

In circumstances where a proposed vehicle crossing facility is within 20m (22 yards) of an existing traffic calming feature, the Traffic Management Team will be consulted for advice on any highway safety implications that may result from the operation of the footway crossing facility, i.e. whether the traffic calming feature should be moved, whether the proposed vehicle crossing facility should be modified or whether permission should be refused. The full costs of any mitigation works are to be met by the applicant. The same advice applies where the proximity of a proposed vehicle crossing facility to an existing pedestrian crossing point is also an issue.

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#### **4.7 Road Classification Assessment Criteria**

A flexible assessment approach should be applied to the road hierarchy, relating to road type, vehicle speeds, and the potential accident risk. Table 3 shows the main points of the assessment criteria to be applied to classified and unclassified roads.

<b><u>Table 3 – Road Classification Assessment Criteria</u></b>			
		<b>Classified Roads</b>	<b>Unclassified Roads</b>
Permissions Required		Planning Consent and Road Opening Permit	Road Opening Permit (Planning Consent may be required – see criteria in Section 3.1)
Vehicle Turning Requirement?		Yes	No
Forward Visibility Requirement		Design Manual for Roads and Bridges	Manual for Streets
Speed Limit	40 mph	90m (98yds)	-
	30 mph	70m (77yds)	43m (47yds)
	20 mph	Traffic Management Team to be consulted as necessary	25m (27yds)
Minimum Proximity to Junctions		15.0m (16yds)	10.0m (11yds)
Extent of Pedestrian Visibility Splay		Maximum height of frontage along the 2.0m x 2.0m (6ft 7in x 6ft 7in) visibility splay = 0.6m (2ft), although some flexibility may be permitted	
Minimum Parking Space Dimensions		4.8m x 2.4m (15ft 9in x 7ft 10in)	
Trees in the adjacent Highway		Highway Asset Management Team to be consulted as necessary	
Trees within the Curtilage of the Property		Highway Asset Management Team to be consulted as necessary	
Proximity to Traffic Calming Measures and Pedestrian Crossing Points		Traffic Management Team to be consulted as necessary	

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## 5.0 Section 184 Approval

The common law right of access is restricted by powers given to the Council as Highway Authority (HA) through the Highways Act 1980. Section 184 of the Act gives the HA powers to regulate applications for a vehicle crossing facility. The HA must have regard to matters specifically set out in the Act and also to other matters, such as highway safety criteria contained in highway design guidance documents.

Where planning permission is also required, an application should only be made once planning approval has been granted. In the event that planning permission is granted, residents should be advised that a copy of the Planning Decision Notice must also be submitted as part of the application for Section 184 Approval.

### 5.1 Section 184 Location Approval

In determining the application, the HA may:

- Approve the application as submitted
- Approve the application with certain conditions
- Propose alternative arrangements
- Refuse the application

In exercising its powers and in determining the extent of the works, s184 states that the HA shall have regard to:

- The need to prevent damage to a footway or verge
- The need to ensure, as far as practicable, safe access and egress from premises; and
- The need to ensure, as far as practicable, the safe passage of traffic both vehicular and pedestrian in highways.

If the location, dimensions, surface materials, or construction specification does not meet the Council's criteria, the Highway Authority reserves the right to refuse an application for the vehicle crossing. The only exception to this is in circumstances when the planning application has been determined by the Planning Committee.

DCC gives permission through the issue of a Section 184 Approval Document.

### 5.2 Section 184 Construction

In accordance with DCC's strategic objective to promote enterprise and help develop a competitive economy, DCC forego the rights given under Section 184 of the Highways Act 1980, subsections 12 and 13 and choose not to quote for and construct vehicle crossings at the request of applicants.

Once Section 184 Approval has been given, the applicant is required to appoint an approved contractor to apply to undertake and complete the construction work within six months of the approval date. The approval is time limited due to the evolving street scene and community requirements.

DCC will advise whether a particular contractor meets the criteria.

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## Glossary

### **Article 4 Direction**

Article 4 Directions are issued by the Council in circumstances where specific control over development is required, primarily where the character of an area of acknowledged importance would be threatened. Because of this they are commonly applied to Conservation Areas. Article 4 Directions are usually applied over an area rather than an individual property and are registered as a Local Land Charge, so that residents will normally be aware of their existence. The effect of the Direction is to remove permitted development rights, thereby necessitating a planning application to be made.

### **Conservation Area**

A Conservation Area is defined by the Planning (Listed Buildings and Conservation Areas) Act 1990 as an area of special architectural or historic interest where tighter planning controls are applied. Residents who live in Conservation Areas may be required to make a planning application for certain types of work which do not need an application in other areas

### **Listed Building**

A listed building is a building or other structure officially designated as being of special architectural, historical or cultural significance. A listed building may not be demolished, extended or altered without special permission from the Local Planning Authority

### **Permeable Surface Materials**

A planning restriction on the type of materials to be used for paving of front gardens came into force on 1<sup>st</sup> October 2008. The Environment Agency provides further details in "Guidance on the permeable surfacing of front gardens" (September 2008). The document is available through the internet: [www.communities.gov.uk/publications/planningandbuilding/pavingfrontgardens](http://www.communities.gov.uk/publications/planningandbuilding/pavingfrontgardens).

### **Permitted Development Rights**

Alterations or additions to houses and the surrounding gardens and yards that do not require planning permission are defined as “permitted development rights” in the Town and Country Planning (General Permitted Development) Order 1995

### **Section 106 Agreement**

Section 106 of the Town and Country Planning Act 1990 allows a Local Planning Authority to enter into a legally-binding agreement or planning obligation with a landowner in association with the grant of planning permission. The obligation is termed a Section 106 Agreement.

### **Vehicle Crossing**

A vehicle crossing is an area of lowered pavement and kerbs that is constructed to provide vehicle access across a footway and/or verge into a private driveway or parking space.

- The Council, as Highway Authority, does not have a duty to construct vehicle crossings on behalf of residents.
- Section 184 of the Highways Act 1980 does give the Highway Authority powers to approve the location and design of vehicle crossings to be constructed at the applicant’s expense.

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