



**London Borough of Merton**

**Report and recommendations arising from the  
scrutiny task group review of Crossovers in Merton**

**Sustainable Communities Overview and Scrutiny Panel**

**October 2017**

### **Task group membership**

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- Steve Cooper, Principal Highway Officer, Merton Council
- Paul Walsh, Head of Parking and CCTV Services, Merton Council
- Neil Milligan, Development Control Section Manager, Merton Council
- Spencer Palmer, Director (Transport and Mobility), London Councils
- Jennifer Sibley, Principal Policy Officer (Transport), London Councils

Crossovers Task Group Report

## **Introduction**

Crossovers are the technical term for a dropped kerb, constructed to allow residents to drive across the pavement and access their property for off-street parking. A rise in applications for crossovers throughout London has been attributed primarily to a growth in car use and ownership alongside local parking restrictions. Merton's policy seeks to take a balanced view in relation to crossovers. It supports the right of residents who meet the criteria to have one installed as well as taking into consideration the impact of crossovers on the local community.

Many residents value the opportunity to have a crossover as it provides security when parking their vehicles outside their home and the convenience of being close to home for people with a disability or young children. Residents who have crossovers also benefit from lower car insurance premiums and the added financial value to the property.

Both councillors and officers identified crossovers as an important area to review; local residents often contact their ward councillors in relation to this issue and the members of the Environment and Regeneration Departmental Management Team also felt a review of this area would be beneficial.

The impact of crossovers is now a priority across London. The London Assembly passed a motion in February 2016 which called for the mayor and the government to promote lawns, flower beds, rain gardens and other vegetation over paving<sup>1</sup>. This was due to the Assembly's concerns about the impact that crossovers are having on green spaces and the importance of front garden plant cover for flood protection, wildlife habitats, the alleviation of air pollution and the character of streets<sup>2</sup>. This was also a key theme in The Royal Horticultural Society, Greening Grey Britain report<sup>3</sup> which warns that half of all London's front gardens are now paved over, many with impermeable surfaces that put further pressure on drainage systems.

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<sup>1</sup> <https://www.london.gov.uk/press-releases/assembly/put-the-garden-back-in-front-gardens-0> (2016)

<sup>2</sup> [https://www.london.gov.uk/press-releases/assembly/put-the-garden-back-in-front-gardens-0\(2016\)](https://www.london.gov.uk/press-releases/assembly/put-the-garden-back-in-front-gardens-0(2016))

<sup>3</sup> [https://www.london.gov.uk/about-us/london-assembly/london-assembly-publications/crazy-paving-environmental-importance-londons\(2005\)](https://www.london.gov.uk/about-us/london-assembly/london-assembly-publications/crazy-paving-environmental-importance-londons(2005))

### **Draft recommendations:**

1. Highways Team to strengthen advice and guidance for residents who wish to implement crossovers. This could be incorporated into the London Plan and should include; guidance around porous materials and water retention. The team could improve the links to construction advice from Merton's design guides. Good practice designs from London Councils and central government should also be made available to residents.
2. Merton crossover policy to be reviewed to ensure it complies with plain English guidance. The revised policy should be sent to the Community Forums for comments and feedback.
3. Highways Team to hold information sessions with councillors about crossover policy.
4. Council to consider extending the Short Frontage Agreement from 4.0 metres to 4.3 metres.
5. Highways Team to adopt and implement effective enforcement action to tackle the rise in illegal crossovers. Consideration should be given to other enforcement measures such as Community Protection Orders.
6. Highways Team to conduct a review of fees charged for crossovers ensuring that the fee not only includes the implementation of the crossover but the time spent managing the service and a contribution towards enforcement.
7. Highways Team to take action to reduce parking stress caused by the rise of crossover applications in controlled parking zone areas. A limit of 2.5 annual permits to be issued per bay. Once this is reached no further crossovers should be allowed in that zonal area as this would reduce the number of bays available for use.
8. Highways Team to implement a process to manage the increase in applications for crossovers when a controlled parking zone is proposed. Once the Cabinet or its representative has formally approved the consultation for a new CPZ , applications for a crossover will be kept on hold until the consultation has been resolved.

## **Terms of Reference:**

The review will focus on ensuring that Merton's crossover policy is effective in balancing the council's responsibilities to individual residents and their properties as well as making it accessible and fair to all residents in the community.

It will involve:

- An analysis of good practice and an evaluation of Merton's crossover policy to ensure that is user friendly and informative to residents.
- An assessment of the implications of Controlled Parking Zones on crossovers in the Borough.
- A consideration of the effects of crossovers on drainage and flooding in the Borough and ways to communicate to residents about the obligation to use non porous materials.
- An evaluation of the enforcement of illegal crossovers and a consideration of ways in which the council can improve its enforcement of crossovers.

## **Legislation**

The creation and enforcement of Crossovers is governed by the following legislation:

- *The Highways Act 1980* (Providing the highway authority with the power to serve a notice on the owner/occupier of premises).
- *The London Local Authorities Act 2003* (Providing powers for Councils to block unauthorised crossovers at the homeowner's expenses).
- *Traffic Management Act 2004, Part 6, s.86* (Ensures that if an occupier of premises habitually crosses the footway other than at a footway *crossover* with a motor vehicle, the Highway Authority can serve a notice imposing reasonable conditions on the use of the footway or the highway verge as a crossover).

## **Background policy context**

Merton Council welcomes and accepts the right of its residents to request crossovers for their property and seeks to minimise any impact that this can have on the local community. This requires striking a balance between residents' preferences for a right of access to their property, and ensuring accessibility to the pavement for other residents, maintaining greenspace and preventing flooding and drainage problems.

In 2005 the Greater London Assembly published its "Crazy Paving" Report<sup>4</sup>, the first London-wide analysis of problems associated with building crossovers. This established that an area 22 times the size of Hyde Park had already been at least partially paved over in London as a result of front gardens being turned from grass to concrete. It is assumed that this area will have grown considerably in the more than 10 years since the report's publication. The report was one of the first to highlight the

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<sup>4</sup> <https://www.london.gov.uk/about-us/london-assembly/london-assembly-publications/crazy-paving-environmental-importance-londons>

strategic importance of protecting London's front gardens and recommended that this issue needs to be formally recognised in the mayor's planning policies, along with a public awareness campaign on non porous materials for paving gardens. Increasing awareness on non porous alternatives is essential for local authorities as planning teams have increased workloads, only reported breaches can be followed up, leaving many more to go unnoticed resulting in some homeowners perhaps unknowingly covering their front garden with concrete or other surfaces.

### **Drainage and flooding:**

The most recent information published by the Environment Agency stated that parts of South West London have a particular susceptibility to surface water and sewer flooding<sup>5</sup>, due to the urbanised nature of the area and the complexity of the sewer system leading to a high potential for constrictions, blockages and failure. This was taken into account by Merton Council's Local Flood Risk Management Strategy in 2014 which that Merton is at greatest risk of flooding from surface water.<sup>6</sup>

Members also express concerns regarding localised flooding and drainage issues in Merton. It is their desire to protect the green space and street scene in Merton, especially when the council is faced with an increasing amount of approved crossover applications. There are particular concerns about streets in the Borough in which almost all the front gardens had been paved over to accommodate cross overs.

Planning permission is not required for a crossover if the resident uses a porous or permeable material to pave their property. Only if a resident is going to pave over 5m<sup>2</sup> of their property with a non-permeable surface will they need to acquire planning permission. The council also offers guidance on permeable surfaces to residents on the council website.

Officers were asked to look at good practice from other local authorities on permeable surfaces for crossovers and ways for Merton to improve the advice given to residents on paving their gardens. The task group also invited representatives from London Councils to provide information about London boroughs and how they were tackling the issue of drainage and flooding in relation to crossovers.

Policies from other councils ranged from:

- Not permitting crossovers unless the hardstanding is permeable (London Borough of Hillingdon)
- A requirement of minimum of 25% soft landscaping or permeable material and actively encouraging careful planning of hard surface construction (London Borough of Harrow).
- Requiring 50% of front area to be soft landscaping under planning requirements and council green policy (London Borough of Brent).

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<sup>5</sup> <https://www.merton.gov.uk/streets-parking-transport/streets-and-pavements/flooding>

<sup>6</sup> <https://www.merton.gov.uk/streets-parking-transport/streets-and-pavements/flooding>

It was agreed by the task group that Merton could improve on its communication with residents regarding what constitutes porous and permeable material and warn them of particular materials that are advertised as porous but will not allow water to soak into them e.g. 'Porous Concrete'.

**Recommendation:**

1. Highways Team to strengthen advice and guidance for residents who wish to implement crossovers. This could be incorporated into the London Plan and should include; guidance around porous materials and water retention. The team could improve the links to construction advice from Merton's design guides. Good practice designs from London Councils and central government should also be made available to residents.

Air pollution

The Environment Committee of the Greater London Assembly (GLA) has reported that the replacement of grass and plant beds with concrete and asphalt surfaces can have a negative affect on air pollution levels. This is because water that soaks into the ground will evaporate back into the air, causing a "cooling effect" around the house. This "cooling effect" is lost if water cannot soak into the ground due to it being covered with hard impermeable surfaces<sup>7</sup>, ultimately causing local temperatures to rise (often referred to as the urban heat island effect). Moreover the removal of hedges and greenery has been attributed to reduced CO2 absorption, thereby increasing air pollution levels. Maintaining clean air is a key strategic priority for Merton Council and we are currently consulting the public on a new air quality strategy.

Effects of Crossovers on House Prices

The rise in crossovers can have an impact on house prices in the local area. The GLA has stated<sup>8</sup> that there is evidence of a "skittle effect" whereby if a single house in any given street has a driveway instead of a garden, and there is limited or no on-street parking, the value of the property will be greater than the surrounding properties. However, this can lead to a negative effect as once a critical mass has been reached, and the majority of front gardens have been paved over, the value of all the houses on the street will be reduced because of the reduction in the attractiveness of the streetscape.

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<sup>7</sup> <https://www.london.gov.uk/about-us/london-assembly/london-assembly-publications/crazy-paving-environmental-importance-londons>

<sup>8</sup> <https://www.london.gov.uk/press-releases/assembly/put-the-garden-back-in-front-gardens-0>

### **Good Practice on Local Authority Websites:**

It is important to members that residents are kept well informed and aware of the council's policy for crossovers and that any information provided to them was user-friendly and accessible. The Highways Team was tasked with reviewing the current policy and making changes to any technical language or wording that did not achieve the clarity required for Merton residents. Moreover the examples of good practice outlined below from other council were also highlighted as potential ways for Merton to improve the way it communicates with residents.

The following are examples of good practice from other council websites that Merton could adopt from neighbouring local authorities:

#### London Borough of Richmond:

- Dropped Kerb Measurement Form: To help customers note down measurements and once completed they are entered into the online form which can check the measurements to see if the minimum and maximum measurements are met before they apply.
- A timeline of the process, outlining each stage and what will happen.

#### London Borough of Kingston:

- Guidance on 'Things to know before applying' and 'Reasons your application may be refused'.
- It is written in informal and clear language, very little specialist or technical language.

#### London Borough of Wandsworth:

- Link below the information to the application form which is available in downloadable PDF format, available without having to log in or fill in details.

#### London Borough of Bromley:

- The structure is a step by step guide outlining: What is A Crossover?, How To Apply, Terms and Conditions and Vehicle Crossover Application Documents.

#### London Borough of Sutton:

- Pre Application and Pre-Approval Checklist, answering 'Yes 'or 'No'. e.g. "Will any of the following affect the application...?" and "Have you checked...?".

### **Recommendations:**

2. Merton crossover policy to be reviewed to ensure it complies with plain English guidance. The revised policy should be sent to community forums for comments and feedback.
3. Highways team to hold information sessions with councillors about crossover



policy.

### **Enforcement against Illegal Crossovers:**

Whilst the vast majority of crossovers are used with safety and comply with our criteria, the issue of illegal crossovers and the impact that they have in the Borough is a priority for members. Task group members had concerns about vehicles over hanging and obstructing the pavement,. This is especially the case with large vehicles that make it difficult for disabled residents those with limited mobility or vision and those pushing buggies to use the pavements and avoid parked vehicles.

Task group members were also aware that some residents illegally access a neighbouring crossover, or access a property without a crossover.

Currently there are over 170 recorded instances of reported illegal footway crossings to gain access to off street parking spaces and according to the Highways Team, there will be more which are not recorded. The task group talked with Development Control Section Manager, Head of Parking and CCTV Services and the Principal Highways Officer about these issues.

### **Procedure for enforcing crossovers at Merton:**

Currently Merton writes to resident of the property informing them that they have been illegally crossing and offers the resident an opportunity to apply through the formal application process. If this is not received, the Highways Team will write a second letter advising that preventative measures may be imposed to protect the public and maintain safety. However the department is restricted in its ability to enforce this action due to lack of staff resources. In reality, priority is given to those that cause damage. Task group members discussed this issue at length and agreed that an increase in administration fee would allow a full follow-up to the letters and implementation of the formal notice, reducing the number of illegal crossovers and increasing safety in Merton. It would also send out a clear message to residents that enforcement procedures are in place and will be implemented when necessary.

### **Short Frontage Agreements:**

The Short Frontage agreement licenses the use of a vehicle crossover where the property front garden depth measures between 4.0m and 4.49m.

Task group members found in their experience that there were reported tensions between neighbours due to changes in council measurement criteria for crossovers, leading to some applications being rejected that would previously have been accepted. The Highways Team attributed this to confusion surrounding the implementation of 'Short Frontage Agreements' in the borough.

### **Enforcing the agreement:**

The Short Frontage Agreement is enforced by a three strike ruling. If the property has a vehicle overhanging the public highway causing obstruction, the resident receives a first and second written warning and by the third instance they receive a notice advising that the council is revoking the agreement and removing the vehicle crossover at the applicants full cost. If the applicant fails to pay the cost, the full cost plus any additional costs are recorded onto the Land Charges register for that property.

#### Issues with Short Frontage Agreements

The Highways Team are aware of instances where applicants have larger vehicles which are overhanging the footway. Whilst these do not meet the legal definition of obstruction, they are obstructing for our residents who may be visually or mobility impaired. According to car sales figures for 2016, the average car length is still 4.3m. Therefore it is suggested that Merton retain the short frontage agreement, which strengthens Merton's drive to be innovative. It is recommended that the Council increase the measurement criteria from 4.0m depth to 4.3m, this would ensure that Merton does not legalise obstruction and meets the need of modern car users.

#### **Recommendation:**

4. Council to consider extending Short Frontage Agreements from 4.0 metres to 4.3 metres.

#### Closer working between the Planning and Highways Teams:

The task group held a meeting with highways and planning officers to look at ways to improve Merton's enforcement of illegal crossovers, and ways to increase communication and closer working between the Planning and Highways Teams. This could be in the form of further checks during the customers building period which would highlight any issues that would need to be referred to planning or further attention which could be given to ensure that garden works are complete prior to the construction of the crossover. This would strengthen the control over poor construction resulting in less flooding and prevent further delays for residents. However this would require an increased workload for the Planning Team and would therefore be dependent upon staffing levels and resources.

#### **Recommendation:**

5. Highways Team to adopt and implement effective enforcement action to tackle the rise in illegal crossovers. Consideration should be given to other enforcement measures such as Community Protection Orders.

#### **Fees and charges for installing a crossover:**

The task group considered how to improve the overall crossover policy in the borough it was found that this would be difficult within the existing budget envelope and current level of staff resource. Task group members were informed that in some instances the current fees do not cover the costs of implementing the crossover and

considered the financial resources that would be necessary to effectively enforce illegal crossovers.

The suggestions were:

- To introduce a contingency fund of £20,000 from Parking Sections Transport improvement funding to finance the implementation of restrictive measures against illegal crossovers and their associated highway damage.
- To increase the non-refundable application fee to £100 and to no longer deduct this fee from the estimated costs when the application is approved and estimated. This would amount to an increase of the Administration Fee to £300 and to ensure that £50 of this fee is put towards taking action against illegal crossovers.

#### Cost of a Crossover in Merton:

Merton has one of the lowest administration costs in London and while this is non-refundable, it is deducted from the overall costs if permission for the crossover is granted.

The current standard costs of implementing a permitted vehicle crossover are as follows:

Measurement	Charges
Standard minimum (2.5m width) crossover implementation.	£700.00 to £900.00 (Including £75 or £125 non-returnable deposit)
Standard maximum (4.8m width) crossover implementation.	£1,250.00 to £1500.00 (Including £75.00 or £125.00 non-returnable deposit)
Optional White bar marking	£80.00

- If it is in an unclassified road the deposit fee is £75 and in a Controlled Parking Zone the deposit fee is £125. (in a classified road the planning fee is a further £125).
- There will be extra costs to the applicant if the proposed crossover affects manhole covers, lamp columns, telegraph poles or trees.
- Where an application requires an amendment to an existing traffic management order due to the need to remove a parking bay within a Controlled Parking Zone. This will attract a £3000 stand-alone fee or a contribution of £300 and await 9 further applicants. Neither of these costs are refundable.

## Fees for Crossovers from other Boroughs

Members looked at pricing in neighbouring boroughs to assess Merton's costs and charges for the administration and construction of a crossover. Prices ranged from:

Local Authority	Fees Charged
Merton	Administration fee of £75.00 (non-refundable) .
Sutton	Administrative fee of £80.00 (non refundable).
Croydon	Administrative Fee of £150.00 (non refundable).
Kingston	Administrative fee of £80 (non-refundable).
Wandsworth	Administrative fee of £45 (non-refundable) and a fixed cost for the construction of a 'standard' crossover of £1,493.50.
Bromley	Administrative Fee of £200.00 (non refundable) and the average cost of a construction is £918.29.
Richmond	Price of application is £221 (non-refundable).If the application is approved; there is an administration charge of £740 that is included in the quote for the dropped kerb. The construction cost was on average between £2000 and £2500.
Camden	No charge for crossover applications and the average cost of construction ranged between £2000 to £3000.

### **Recommendation:**

6. Highways Team to conduct a review of fees charged for crossovers to ensure these covers the full cost of managing the service. Revised fees should include an additional pot of money to pay for enforcement action. Additional funding could be identified from transport related budgets.

## **Vehicle Crossovers within Controlled Parking Zones(CPZ)**

### Controlled Parking Zones in Merton

The regulations covering the introduction of a CPZ state that all of the highway must be designated as either a parking place or an area where parking is prohibited. To ensure that obstructive parking does not take place, yellow lines are painted across crossovers and residents can park on the lines outside the CPZ hours, unless special restrictions apply and are appropriately signed. The CPZ design on which there is consultation and which is implemented is the most

efficient use of the kerb space available and the design process takes into account the existing vehicle crossovers in each street to be covered by the CPZ. Moreover implementing a crossover within a CPZ can be expensive for the applicant as they will be required to pay for any amendments to the existing traffic management order.

### Issues with Controlled Parking Zones

Members informed the task group that residents have expressed frustration due to the limited parking space available close to their homes. It is important that Merton's policies are open and transparent to support perceptions of fairness. This is also true in relation to changes in CPZ policy.

It was identified that there were a number of issues in respect to vehicle crossovers and CPZs in the Borough:

- Every crossover permitted post CPZ implementation reduces the available parking bays by one. If every property in a street was eligible for a crossover this in effect would remove the majority of bays and dramatically impact on the overall efficiency of the CPZ.
- When a CPZ is proposed there is an increased amount of vehicle crossover applications received. This severely restricts the amount of kerb space available to create a CPZ. The increase demand impacts on the delivery resource. Conflict in CPZs with residents that have crossovers and residents that cannot park close to their homes as crossovers take away parking space.

It was also noted by members that from the feedback made by residents, it seems that there is a generational difference in attitudes to off street parking, with younger residents viewing off street parking as more acceptable than residents who have lived in the area for a long time.

### **Good practice on crossovers in CPZ areas:**

Members were interested in looking at good practice from other boroughs in regulating and monitoring the use of crossovers in CPZ areas. It was identified that some central London boroughs practice a no crossover in a CPZ policy when at least 75% of the Borough was covered by a CPZ and the amount of permits issued exceed the resident bays available by more than 25%.

Furthermore many boroughs cited the increase of applications prior to the adoption of a CPZ impacting on their resources and the ability to effectively design the CPZ. Although with the exception of the London Borough of Kensington and Chelsea operating a no crossovers in CPZ areas policy, most boroughs opted for a restriction instead of an outright ban, in order to improve the management of CPZs. This can be seen in The London Borough of Wandsworth which has introduced a policy that allows crossovers within CPZs providing they do not exceed a 50% reduction in kerb space available and that the proposed location does not split two bays.

The task group looked at all the evidence and discussed this with the Highways Team and colleagues from London Council's and believed that the fairest way to balance the efficient working of a CPZ could be done in two ways:

1) To adopt a policy that:

- During a prescribed period freezes crossover applications within a proposed CPZ. This could greatly improve the opportunities of ensuring that the CPZ implemented is the most efficient use of the kerb space available.
- The prescribed period would be from the date of the Cabinet meeting where permission to move forward to the detailed design stage is requested because initial public consultation is in favour of a CPZ to the date the Traffic Management Order is made.
- This would enable applications to continue until that point and then be contained within the original Traffic Management Order.
- Once the Cabinet or its representative has formally approved the consultation for a new CPZ, no applications for crossovers in that area/zone will be processed until the application has been resolved.

2) To limit crossovers in CPZ areas in which there is 'parking stress' (defined as more than 2.5 permits per bay). This would involve the Highways Team considering the number of permits issued to the number of spaces. When a Bay reached the saturation zone of 2.5 permits per space not including disabled bays, the resident application for a crossover would not be accepted.

### **Recommendations:**

7. Highways Team to take action to reduce parking stress caused by the rise of crossover applications in controlled parking zone areas. A limit of 2.5 annual permits will be issued per bay. Once this is reached no further crossovers should be allowed in that zonal area.
8. Highways Team to implement a process to manage the increase in applications for crossovers when a controlled parking zone is proposed. No application will be processed once the controlled parking zones is formally approved for consultation and will held awaiting the outcome of and implementation of the proposals.

### **Conclusion**

The recommendations outlined in this report are considered necessary in improving the way we use crossovers in the borough. Merton has a proud tradition of providing

support to residents who want a crossover. However issues such as enforcing illegal crossovers that cause obstructions for residents, loss of green space due to paving front gardens and limited parking available in CPZ areas are affecting residents on a day to day basis. Therefore the task group has sought to balance residents' desires to modify their properties with the interests of the local community. It is considered that increasing funding to enforce illegal crossovers, limiting crossovers in 'high stress' areas and communicating better with residents about Merton's policy are an essential step in improving the effect of crossovers in Merton.

The task group also discussed the emerging recommendations with colleagues from London councils who recognised the innovative and pioneering work that is taking place and being proposed. They have asked for the final report and recommendations to be circulated to all London Boroughs.

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