

Our ref: 400219

Date: 16th March 2019

Lisa Bolland
Town Clerk
Kirkbymoorside Town Council

Letter sent by email town.clerk@kirkbymoorsidetowncouncil.gov.uk



Dear Ms Bolland

Traffic Concerns, West End, Kirkbymoorside

Thank you for your correspondence in connection with concerns over traffic offences and lack of enforcement in Kirkbymoorside. Firstly, please accept my sincere apologies for the delay in responding whilst enquiries were completed with the local team.

I empathise with the circumstances you have described and fully appreciate the concerns raised and the situation has been discussed with your local Inspector, Martin Dennison. I understand that this particular location has residential and commercial parking along the active or usable carriageway which limits the access, and rightly or wrongly I can foresee the circumstances in which motorists may “mount the kerb” in order to allow for the passage of oncoming vehicles.

To assist in this response I will detail the related legislation. Driving on a footpath is prohibited by section 72 of the Highway Act of 1835 providing:

If any person shall wilfully ride upon any footpath or causeway by the side of any road, made or set apart for the use or accommodation of foot passengers; or shall wilfully lead or drive any horse, ass, sheep, mule, swine, or cattle or carriage of any description, or any truck or sledge, upon any such footpath or causeway or shall tether any horse, ass, mule, swine or cattle on any highway so as to suffer or permit the tethered animal to be thereon; every person so offending in any of the cases aforesaid shall for each and every such offence forfeit and pay a penalty (see below) over and above the damages occasioned thereby.

Although still enforceable, this legislation you will appreciate was not enacted with 21st century motorised vehicles in mind. Enforcement in proportionate circumstances would however be possible through the issuing of a notice of intended prosecution document which would require the name and address of the driver.

I have considered what action a motorist could reasonably take if they were confronted by a vehicle heading in the opposite direction whilst driving along West End. If a motorist did not mount the kerb it is reasonable to assume the second motorist would have to pull in to a space, or reverse until there was sufficient space to pass. With this in mind then we must consider other legislation for example - unnecessary reversing is defined in Regulation 106 of the Road Vehicles (Construction and Use) Regulations 1986 as:

An offence of reversing a motor vehicle further than necessary for the safety or reasonable convenience of the occupants.

No person shall drive, or cause or permit to be driven, a motor vehicle backwards on a road further than may be requisite for the safety or reasonable convenience of the occupants of the vehicle or other traffic, unless it is a road roller or is engaged in the construction, maintenance or repair of the road



Consequently we are in a situation whereby it is conceivable that two motorists who meet one another on West End cannot manoeuvre out of the way of the other vehicle without fear of committing an offence. The maximum fine upon conviction for driving on the footpath is £500. The maximum fine for unnecessary reversing is between £1000 and £2500.

Inspector Dennison and the Ryedale Safer Neighbourhood Team have a responsibility for safeguarding the public against harm and the threat of harm. They also have to consider the fairness and proportionality in their actions. A consideration would therefore be whether the existing road layout of West End is the issue, rather than the attempts of motorists to navigate along it.

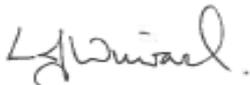
I understand the funding restraints you describe and enforcement when proportionate is of course an option, however, it does not appear that this would be a longer term solution in this case. Inspector Dennison is looking to work closely with our partners and believes the solution to this issue is in re-engineering West End, either through the prohibition of parking, or alternatively the creation of a one-way system. To this end we will seek dialogue with North Yorkshire County Council to look at improving the existing road layout.

In the interim the Safer Neighbourhood Team will send out letters to registered keepers of any vehicles for which we have evidence of offending. We will point out individual responsibilities of motorists and road users and potential offences and penalties.

I trust this reassures you that our local neighbourhood team is aware of the issues you raise and are working with our partners to achieve a long term solution, whilst taking what we feel is proportionate action in the short term.

Thank you for your contact and please do not hesitate to contact me if I can be of any further assistance.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'L Winward'.

Lisa Winward
Chief Constable
North Yorkshire Police