



**REPORT TO: ECONOMIC DEVELOPMENT AND INFRASTRUCTURE
SERVICES COMMITTEE ON 20 JUNE 2023**

SUBJECT: PAVEMENT PARKING PROPOSED EXEMPTION ORDER

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 To seek approval of the Committee to begin the consultation process for a proposed Exemption Order to introduce locations across Moray where there are to be exemptions from the enforcement of the new Pavement Parking legislation which is part of the Transport (Scotland) Act 2019:

“Moray Council (Pavement Parking Exemptions) Order 2023”

- 1.2 This report is submitted to Committee in terms of Section III (F) (17) and (20) of the Council's Scheme of Administration relating to traffic management functions including the preparation and implementation of traffic management and the making of Orders for the regulation and management of traffic.

2. RECOMMENDATION

- 2.1 It is recommended that Committee:-**

- i) approves the proposed Exemption Order at the locations shown in Appendix 2 to this report from Pavement Parking legislation and instruct the Head of Environmental and Commercial Services and the Legal Services Manager to begin the statutory process; and**
- ii) instructs the Head of Environmental and Commercial Services and the Legal Services Manager to make and implement the Order if, following the consultation period, there are no outstanding objections.**

3. BACKGROUND

- 3.1 When vehicles park on the public footway, either partially or wholly, they can restrict the available width for pedestrians, leading to vulnerable road users having to step off the footway and onto the carriageway to pass the parked vehicle. This can be challenging for the ambulant disabled, pedestrians with

mobility aids such as walking frames, wheelchair users and parents/carers with young children in pushchairs/prams or walking, as there are often no dropped kerbs present. Part 6 of the Transport (Scotland) Act 2019 introduced the statutory framework for a national ban on pavement parking, double-parking and parking at dropped kerbs to make it easier to ensure that pavements and roads are safer and more accessible for all.

- 3.2 Transport Scotland have provided secondary legislation and parking standards guidance that will underpin the enforcement of these parking prohibitions from 1 December 2023. The legislation provides exceptions for certain types of vehicles if they are involved in emergencies, e.g. ambulances, and where vehicles are delivering goods and if they were not parking on the footway then they would obstruct the carriageway. The legislation also provides for the promotion of Exemption Orders for locations, which meet certain criteria.
- 3.3 The parking standards guidance sets out an assessment process and the criteria for where exemptions to the pavement parking legislation can be promoted. A copy of this guidance has been provided on the Members portal. Scottish Government have provided funding for the road assessments to be undertaken and to support the promotion and implementation of any Exemption Orders.
- 3.4 This report is to seek authority to promote Exemption Orders for locations of the public footway (pavement) where parking is considered necessary to keep the carriageway clear for emergency vehicles. There are very few locations in Moray where this is actually necessary. The majority of pavement parking observed is being undertaken based on convenience e.g. so residents can park directly outside their property.
- 3.5 This report is focused on the required assessment of potential Exemption Orders. The Council's position on enforcement will be subject of a future report when there has been further clarity from Scottish Government.

4. ASSESSMENT PROCESS

- 4.1 The Parking Standards guidance states that a footway, or the carriageway with which it is associated with, must have the following characteristics to be considered for an Exemption Order:

Either;

- a) The footway is of sufficient width to enable 1.5 metres (down to an absolute minimum of 1,2 metres over a short distance to take account of street furniture) to be available for the passage of non-vehicular traffic (including pedestrians, wheelchair users and mobility scooters) when a vehicle is parked on the footway;

Or:

- b) The carriageway associated with the footway is of sufficient restricted width or access that it would be rendered unpassable by emergency

vehicles when one or more vehicles are parked on the carriageway, but would be possible to access if vehicles were permitted to park on the footway.

- 4.2 Transportation officers and local Roads Inspectors identified locations throughout Moray where pavement parking has been observed and where, if vehicles did not park either partially or wholly on the footway, they would cause an obstruction to emergency vehicles. An email was also sent to all Community Councils seeking information as to where they have observed vehicles parking on the public footway. A list of the locations identified through this process is attached as **APPENDIX 1**.
- 4.3 The list of locations was then passed to a Transport specialist contracted to undertake the site surveys and assessments on behalf of the Council. The contractor has also prepared the drawings and schedules for the proposed Exemption Order. The consultant visited the locations on the list during the week commencing 1 May 2023. Each location was visited during the day and in the evenings to observe parking behaviours and to gather measurements and other information.
- 4.4 The assessments were then undertaken through completion of the spreadsheet tool provided within the guidance. The locations which met the criteria to be considered for an Exemption Order were then identified. The following streets were identified as having locations where an Exemption Order could be pursued (plans showing the relevant locations can be found in **APPENDIX 2**):
- Alves, Burghead Road;
 - Buckie, Sutherland Street;
 - Cullen, Seatown
 - Dufftown, Queen Street;
 - Elgin, Academy Street;
 - Elgin, Mitchell Crescent;
 - Hopeman, Thom Street;
 - Hopeman, Park Street; and
 - Farquhar Street, Hopeman
- 4.5 At some of the locations visited vehicles were parked either wholly or partially on the footway. However, there are nearby on-street locations where parking can take place on the carriageway without obstructing passing vehicles. These locations have not been included in the list of locations for the proposed Exemption Order. Furthermore, there are locations in newer housing developments where on-plot parking has been provided (garage and/or driveway) but residents are choosing instead to park either partially or wholly on the footway outside their property. Again, these locations have not been assessed, as there is off-street parking readily available.
- 4.6 An Equalities Impact Assessment (EQIA) has been undertaken in accordance with the guidance for each of the locations identified in paragraph 4.2. Copies of these EQIAs have been uploaded to the Members Portal.

- 4.7 A copy of the Schedule and Statement of Reasons for the proposed Exemption Order can be found in **APPENDIX 3** whilst the detailed plans are contained within **APPENDIX 2**.
- 4.8 Should the Committee approve the promotion of the proposed Order; the next step will be to undertake consultation. The minimum time for the consultation is 28 days, subject to the proposed order being advertised for a minimum period of 7 days prior to the start of the consultation period. If there are no objections to the proposed order, the aim is for the order to be made with the required road markings and signage in place for 1 December 2023, when enforcement is due to commence.

5. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The report encompasses the main aims of the Economic Development programme by maintaining suitable transport facilities and infrastructure as designated for their intended use.

(b) Policy and Legal

The proposed Exemption Order is as a result of the national ban on pavement parking, double-parking and parking at dropped kerbs, which is Part 6 of the Transport (Scotland) Act 2019.

The proposal complies with the requirements in the Road Traffic Regulation Act 1984 and the Local Authorities' Traffic Orders (Procedures) (Scotland) Regulations 1999.

(c) Financial implications

Scottish Government have provided a grant of £42,000 for the Road Assessments, promoting the Exemption Order and the implementation of the Order through the provision of road signs and road markings. There is also Capital Signs and Road Markings budget available to support the implementation of the Order.

(d) Risk Implications

Without the introduction of exemptions at locations which meet the criteria in the road assessments, residents will be subject to enforcement and fines when parking on the public footway near their homes, where they have no other option but to do so.

There is a reputational risk to the Council if Exemptions for such locations are not pursued.

(e) Staffing Implications

There are no staffing implications arising from this report.

(f) Property

There are no property implications arising from this report.

(g) Equalities/Socio Economic Impact

Vehicles parking either partially or wholly on the public footway can present an obstruction to pedestrians and present a hazard to those with restricted mobility and/or visual impairments.

The guidance provided to support the parking assessments includes a requirement to undertake EQIAs for the locations where an Exemption Order is being promoted.

(h) Climate Change and Biodiversity Impacts

No Climate Change or biodiversity implications have been determined for the proposed Exemption Order.

(i) Consultations

The Depute Chief Executive (Economy, Environment & Finance), Head of Environmental and Commercial Services; Chief Financial Officer, Legal Services Manager, Equal Opportunities Officer, Climate Change Strategy Officer, Committee Services Officer (L Rowan) and L Morrison, Police Scotland, have been consulted and any comments taken into consideration.

All Elected Members have been advised of the proposals and any comments that they have may be tabled at the meeting.

6. CONCLUSION

6.1 It is proposed to promote an Order, which will have the effect of introducing exemptions to the Pavement Parking legislation at the locations specified in the schedule in APPENDIX 3 and the plans in APPENDIX 2.

Author of Report: Diane Anderson, Senior Engineer Transportation

Background Papers:

Ref: SPMAN-524642768-879