



**REPORT TO: ECONOMIC DEVELOPMENT AND INFRASTRUCTURE
SERVICES COMMITTEE ON 6 FEBRUARY 2024**

SUBJECT: PAVEMENT PARKING

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

1. REASON FOR REPORT

- 1.1 To inform the Committee of progress for the new Pavement Parking legislation which came into effect on 11 December 2023 as part of the Transport (Scotland) Act 2019. This gave local authorities the power to enforce a ban on pavement parking, double-parking (more than 50cm from the edge of a carriageway) and parking at dropped kerbs installed for pedestrian or cycle usage.
- 1.2 This report is submitted to Committee in terms of Section III (F) (16) of the Council's Scheme of Administration relating to exercise the functions of the Council under the Road (Scotland) Act 1984 and other relevant legislation and to deal with traffic and transport management functions, including the preparation and implementation of traffic management schemes.

2. RECOMMENDATION

2.1 It is recommended that Committee:

- (i) note the updates in the report relating to the statutory powers on pavement parking; and**
- (ii) agrees option B, the promotion of key messages and continued partnership working with Police Scotland and others as a proportionate response to pavement parking issues in Moray.**

3. BACKGROUND

- 3.1 At the meeting of this Committee on 20 June 2023, this Committee agreed to approve a Pavement Parking Exemption order for some exemptions to the pavement parking legislation where for example the pavement was too narrow for cars to park and emergency vehicles to pass (para 7 of the Minute refers). These orders are now complete and the relevant signage and road markings should be in place by Mid-February (subject to weather conditions).

- 3.2 This is a nationwide ban and as such some key messages, advertisements and marketing materials have been prepared at a national level for local authorities and others to use. These are available to view at <https://roadsafety.scot/campaigns/pavement-parking/>
- 3.3 The statutory powers and accompanying regulations came into force on 11 December 2023 as part of the Transport (Scotland) Act 2019. This gives local authorities the power (but not duty) to enforce a ban on pavement parking. A statutory duty means that the Council must comply with the requirements of the relevant legislation. A statutory power, as is the case with this legislation, means that the Council has discretion whether to exercise the power.
- 3.4 Whilst pavement parking is an issue in some locations in Moray, it is not the main parking enforcement issue. There are wider concerns about parking enforcement in Elgin in particular, which is being considered in a separate report to this Committee.
- 3.5 Options in response to the new power are – A) do nothing, B) promote key messages and liaise with the Police in relation to parking that is dangerous / causing an obstruction, C) employ officers and outsource processing to another authority, which has decriminalised parking in place.

(A) Do nothing

- 3.6 Continue with the current situation whereby the local authority takes no role in pavement parking matters. This is not recommended due to equality and reputational risks.

(B) Promote Key Messages and liaise with Police

- 3.7 This approach is recommended by officers as it would be beneficial and proportionate to the scale of the issue. Promoting these messages will help to increase the awareness of the new legislation, promote understanding of why the parking ban has come into place and reinforce the need for our pavements to be accessible for all users and in particular our more vulnerable road users.
- 3.8 Council Officers continue to work closely in partnership with Police Scotland and have a good positive relationship acknowledging each other's priorities and limitations on resources. Police Scotland do respond to calls for parking that is dangerous or causing an obstruction.
- 3.9 The key messages of a communications campaign would be that:
- Many people face daily difficulties with pavement parking. It is dangerous and frustrating, especially for those with impairments, wheel chair users or those with limited mobility and those with mental health challenges.
 - People walking with young children should not be forced onto the road to avoid vehicles parking on the footway.

- Pavement parking can have serious consequences and can force people to take unnecessary road safety risks.
- Complying with the pavement parking restrictions ensures our pavements and roads are safer and more accessible to all.
- If a vehicle is parked dangerously or is causing an obstruction, Police Scotland should be contacted via 101 to respond, as they do currently.

(C) Employ officers to enforce legislation with processing outsourced

- 3.10 This would involve employing dedicated officers, training, uniform, equipment as well as contributing to the costs of a further local authority which already had decriminalised parking powers to undertake processing of Penalty Charge Notices. It is likely that at least two officers would be required to cover for shift patterns and annual leave. This staff cost would be in the region of £65,000 and there is no budgetary provision for this.
- 3.11 At present, whilst there are wide spread concerns about wider parking issues and enforcement in Elgin town centre, the parking enforcement concerns relate to a variety of issues, not just pavement parking, and are explored further in the separate report on parking enforcement for consideration by Committee on this agenda.
- 3.12 As the legislation confers a specific power to enforce pavement parking on Local Authorities, this option could be pursued in isolation to Decriminalisation of Parking Enforcement, but is not advised as a proportionate response to the scale of illegal pavement parking in Moray. If members wish to go ahead with this option, a further report would be required to go to a future meeting of this committee with more detailed costs on staffing, equipment required and potential neighbouring authorities who may provide the processing and their costs.
- 3.13 In contrast, on street parking enforcement in Moray is still the responsibility of Police Scotland. Ten local authorities including Moray, do not currently have decriminalised parking in Scotland. Decriminalised Parking Enforcement is a regime that enables a local authority to enforce its own parking policies, including the issuing of Penalty Charge Notices to motorists breaching parking controls in specified areas. This was discussed at a meeting of this committee on 5 September 2023 as part of the Elgin Car Parking Review (para 8 of the Minute refers) and as part of the Elgin Parking Strategy report on 31 October 2017 (Para 7 of the Minute refers) and this report does not seek to amend the current position of council.

4 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 designed for their intended use.

(b) Policy and Legal

Pavement parking legislation which started on 11 December 2023 as part of the Transport (Scotland) Act 2019. This give local authorities the power (but not duty) to enforce a ban on pavement parking. Moray Council has criminalised parking, so enforcement of on street parking is required to be undertaken by the Police Scotland. A statutory duty means that the Council must comply with the requirements of the relevant legislation. A statutory power, as is the case with this legislation, means that the Council has discretion whether to exercise the power.

(c) Financial implications

There are no financial implications arising from this report unless Option (C) is preferred and this would require additional revenue budget of around £65,000 per annum for staff. Processing costs from another local authority are still to be determined and would likely be on the basis of numbers of tickets. If members wish to go ahead with this option, a further report would be required to Full Council and a future committee with more detailed costs and options/availability of neighbouring authorities.

When the Council approved the budget for 2023/24 on 1 March 2023 (paragraph 5 of the Minute refers) it balanced only by using reserves and one-off financial flexibilities. The indicative 3 year budget showed a likely requirement to continue to make savings in the order of £20 million in the next two years. All financial decisions must be made in this context and only essential additional expenditure should be agreed in the course of the year. In making this determination the committee should consider whether the financial risk to the Council of incurring additional expenditure outweighs the risk to the Council of not incurring that expenditure, as set out in the risk section below and whether a decision on funding could reasonably be deferred until the budget for future years is approved

The Scottish Government provided a grant of £42,000 in preparation for the introduction of the Transport (Scotland) Act 2019 and the introduction of the new parking restrictions that were introduced as part of this act. The funding was for the road assessment and promotion of exemption order and implementation of these orders through the provision of road signs and road markings. There was also capital signs and road markings budget available to support the implementation of the exemption orders.

(d) Risk Implications

There is a reputational risk to the Council if option (A) do nothing is agreed and pavement parking messaging around the reasons why compliance is important is not carried out.

(e) Staffing Implications

There are no staffing implications arising from this report unless option (C) is agreed in which case there would be staffing implications such as additional staff required. This is likely to be two staff based on our current car park attendant roles.

(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. Promoting compliance of this should help raise awareness of these issues and promote compliance. The guidance provided to support the parking assessments included a requirement to undertake Equalities Impact Assessment for the locations where an Exemption order was promoted. An integrated Impact Assessment has been carried out for the recommended proposal and is available in **(Appendix A)**.

(h) Climate Change and Biodiversity Impacts

There are no climate change and biodiversity implications arising from this report.

(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, Police Scotland and Committee Services Officer (L Rowan) have been consulted and any comments taken into consideration.

5. CONCLUSION

5.1 The focus for pavement parking compliance should be on the reasons why the ban was put in place and promoting these messages.

5.2 The key messages are:

- **Many people face daily difficulties with pavement parking. It is dangerous and frustrating, especially for those with impairments, wheelchair users or those with limited mobility and those with mental health challenges.**
- **Pavement parking has serious consequences and can force people to take unnecessary risks.**
- **People walking with young children should not be forced onto the road to avoid vehicles parking on the footway.**
- **The Pavement Parking marketing campaign aims to inform the public of the changes to ensure our pavements and roads are safer and more accessible to all.**

Author of Report: Kelly Wiltshire, Strategic Transport Services Manager

Background Papers: [Pavement Parking Exemption Order – June 2023](#)
[Elgin Car Parking Review - September 2023](#)
[Elgin Car Park Strategy – October 2017](#)

Ref: SPMAN-524642768-1016