
NORTH AYRSHIRE COUNCIL

19 March 2024

Cabinet

Title: Decriminalised Parking Enforcement

Purpose: To update Cabinet on the introduction of Decriminalised Parking Enforcement (DPE) on 28 March 2024 and the proposal for enforcement of the new parking prohibitions contained within the Transport (Scotland) Act 2019 commonly referred to as the Pavement Parking Ban.

Recommendation: That Cabinet

- i) notes that Decriminalised Parking Enforcement will commence on 28 March 2024.
- ii) notes that the regulations governing enforcement of the new parking prohibitions commonly known as the Pavement Parking Ban came in to force 11 December 2023
- iii) notes the approach taken to undertake the footway parking assessment
- iv) approves the proposal for implementation of enforcement of the prohibitions contained within the Transport (Scotland) Act 2019 with regard to the ban on pavement parking, double parking and parking at dropped kerbs for pedestrian and cycle access

1. Executive Summary

- 1.1 The decision to proceed with Decriminalised Parking Enforcement (DPE) without car parking charges was agreed at a meeting of North Ayrshire Council on 15 February 2023
- 1.2 The implementation of DPE in North Ayrshire is planned for 28 March 2024 and will enable North Ayrshire Council enforcement officers to administer parking penalties to ensure compliance with parking controls with regard to waiting, loading or parking restrictions.
- 1.3 The Transport (Scotland) Act 2019 bans pavement parking, double parking, and parking at dropped kerbs for pedestrian and cycle access. The secondary legislation to enable enforcement by local authorities came into force in December 2023.

- 1.4 NAC Enforcement Officers may also enforce parking prohibitions with regard to pavement parking, double parking and parking at dropped kerbs for pedestrian and cycle access under the powers provided by the Transport (Scotland) Act 2019.

2. Background

- 2.1 The decision to proceed with Decriminalised Parking Enforcement (DPE) without car parking charges was agreed at a meeting of North Ayrshire Council on 15 February 2023.
- 2.2 Parking Enforcement Officers have been recruited and a supplier engaged to provide systems and training to support the implementation of DPE.
- 2.3 The implementation of DPE in North Ayrshire is planned for 28 March 2024 and this will enable NAC enforcement officers to administer parking penalties to ensure compliance with parking controls with regard to waiting, loading or parking restrictions. All moving traffic offences, matters of obstruction and some temporary waiting restrictions remain the responsibility of Police Scotland.
- 2.4 The Scottish Government introduced parking legislation in 2019 in Scotland to assist in tackling the impact of inconsiderate and obstructive parking to ensure that the roads and pavements are accessible for all. Inconsiderate and obstructive parking on footways and at dropped kerbs as well as double parking causes inconvenience and accessibility issues for all. It particularly affects those with mobility problems, parents with pushchairs and older people.
- 2.5 The introduction of The Transport (Scotland) Act 2019 bans pavement parking, double parking, and parking at dropped kerbs, and gives local authorities the relevant powers to enforce these new provisions. The Act also gives local authorities the power to exempt footways from the pavement parking prohibition in certain circumstances and in accordance with Ministerial directions.
- 2.6 The secondary legislation to enable local authorities to enforce the new legislation came into force in December 2023. It is proposed that the parking prohibitions contained within the Transport (Scotland) Act 2019 are enforced in line with implementation of DPE on 28 March 2024.

Pavement Parking Exemptions

- 2.7 Ministerial Directions, known as The Transport (Scotland) Act 2019 (Pavement Parking Prohibition) (Footway and Associated Carriageway Characteristics) Directions 2022, have been issued to Scottish Local Authorities and detail the characteristics which a footway **must** have in order to be considered for an Exemption Order:

(1) A footway may not be specified in an exemption order unless:

- a) *its layout or character would allow for a width of 1.5 metres of the footway to remain unobstructed when any part of a vehicle is parked on it, or*
- b) *the layout or character of the carriageway associated with the footway is such that the passage of an emergency vehicle would be impeded by the presence of a vehicle parked on the carriageway.*

The width of 1.5 metres mentioned in paragraph 1(a) is to be measured from the footway edge which is furthest away from the centre of the carriageway (however that edge is bounded).

- 2.8 In accordance with Scottish Government guidance, exemptions should only be deployed in areas where it is absolutely necessary and no alternative solution can be used to maintain vehicular access. Traffic Regulation Order methods, such as one-way streets and parking restrictions (double yellow lines), can be used to regulate parking in areas where poor parking behaviour persists.
- 2.9 There are exemptions which allow pavement parking for specific service vehicles, emergency services, medical practitioners, postal service providers where delivery/collection cannot be achieved without the vehicle being parked on the pavement. There are also exemptions for vehicles used in connection with roadworks and the removal of obstructions.
- 2.10 Enforcing footway parking prohibitions will deliver significant benefits to all users of the footway, providing an unobstructed and safe route for travel. However, it is acknowledged that enforcement, particularly in areas where levels of footway parking are significant, could inadvertently have a negative impact on the wider road network. Mitigation measures such as waiting restrictions and/or parking prohibitions may be considered to address concerns raised. It is also recognised there could be further resource implications in terms of enforcing the pavement parking legislation and we will monitor the situation.

Footway Assessment

- 2.11 Prior to implementation of the pavement parking ban, the Scottish Government provided funds to local authorities to undertake an assessment of their footway network. A footway assessment of current parking behaviour has been completed to identify any areas where parking exemptions may need to be considered in line with the legislation. The assessment was initially undertaken as a desktop exercise with approximately 2700 streets assessed. This identified areas which required onsite inspections, these were undertaken both during the day and in the evenings in order to assess when residents are home and parking on footways may be more prevalent. Further locations were highlighted by elected members that may require to be considered for an exemption under the legislation.
- 2.12 The footway assessments indicated that only a small number of streets in North Ayrshire have significant footway parking where mitigation measures may be required to minimise negative impacts on the wider road network when the regulations are enforced.
- 2.13 In the majority of streets where footway parking is prevalent, there is sufficient road space for vehicles to be parked fully on the carriageway.
- 2.14 In accordance with the legislation, all exempted streets must be signed and lined. Transport Scotland have asked that information on anticipated costs for exemptions, promotion of orders, signing and lining, be submitted to them by 1 April 2024. It is expected that the majority of local authorities will not be in a position to provide costs at this stage. A submission, however, will be made to support possible exemptions in order that if any exemptions are required, these will be funded. It should be noted that

there will be no funding provided for ongoing maintenance of signs and lines required as part of any exemption orders.

Parking Enforcement

- 2.15 A national awareness campaign is being delivered by Transport Scotland on the Pavement Parking Ban and the Council will run a communications campaign aligned with the national approach prior to implementation. As well as this the Council will also run a bespoke communications campaign relating to DPE including local radio and social media messaging.
- 2.16 It is proposed that a soft launch will commence on 28 March 2024 where warning notices rather than penalty charge notices will be issued for a period of 2 weeks in order to raise awareness of the parking behaviours that will incur a penalty once the regulations are enforced. This applies to both decriminalised parking offences and parking prohibitions under the Transport (Scotland) Act 2019.
- 2.17 Warning notices will be issued in areas highlighted through the footway assessment as having significant pavement parking problems to ensure the public are aware that they must not park on the pavements and that continuation of this behaviour may result in a penalty charge notice.
- 2.18 The issue of warning notices is expected to lead to streets being highlighted as requiring further assessment. There are also expected to be concerns raised with regard to displacement into adjacent streets. The assessment of areas of concern will be ongoing as the legislation has its intended effect on parking behaviour.
- 2.19 Officers will assess the impact on the wider network and consider if mitigation measures, such as waiting restrictions/prohibitions, may be required. Where it is identified that parking displacement impacts on the wider network and cannot be resolved through these measures, an exemption order may be considered.
- 2.20 It is anticipated that members of the public may report illegal parking to the Council by way of email/telephone contact and /or photographic evidence in order to have their concerns or parking difficulties addressed. This will provide information to the enforcement team around potential areas that may require attention. Penalty charge notices (PCNs) cannot be issued based on evidence submitted to the council, an enforcement officer is required to be in attendance in order to witness the violation and issue a PCN.
- 2.21 For information, Local Authorities in Scotland that have Decriminalised Parking Enforcement powers are in the process of preparing for enforcement of the new parking prohibitions under the Transport (Scotland) Act 2019. Edinburgh City Council commenced enforcement of parking on pavements, parking at crossing points and double parking in Edinburgh on Monday 29 January 2024 with no exemptions currently proposed, with the impact being monitored thereafter to inform any mitigation measures that may be needed.

Highland Council have been issuing warning notices for the new parking prohibitions since December 2023 and are expected to commence enforcement in February 2024.

3. Proposals

- 3.1 That Cabinet notes that Decriminalised Parking Enforcement will commence in 28 March 2024
- 3.2 That Cabinet notes that the regulations governing enforcement of the new parking prohibitions commonly known as the Pavement Parking Ban came into force 11 December 2023.
- 3.3 That Cabinet notes the approach taken to undertake the footway parking assessments.
- 3.4 That Cabinet approves the proposal for enforcement of the prohibitions contained within the Transport (Scotland) Act 2019 with regard to the ban on pavement parking, double parking and parking at dropped kerbs for pedestrian and cycle access.

4. Implications/Socio-economic Duty

Financial

- 4.1 The Scottish Government provided funding of £67,242 to assist with the assessment process. North Ayrshire Council are awaiting confirmation of whether additional funding may be made available to Councils to meet the cost of processing and making Traffic Regulation Orders or other mitigation measures that may be required as a result of the introduction of the footway parking prohibitions.

Human Resources

- 4.2 The enforcement team in place for Decriminalised Parking Enforcement will also carry out enforcement of the pavement parking provisions. Enforcement officers working hours are between 7.30am and 10pm, Monday to Sunday. The Roads Network team will carry out assessments and consider mitigation measures as required within existing resource. Resource implications from the new pavement parking legislation will be monitored.

Legal

- 4.3 Delegated authority to enforce the legislation is contained within the Delegation to Officers, General Provisions.

Equality/Socio-economic

- 4.4 Implementing these parking prohibitions will be beneficial to all pedestrians, and particularly to those with mobility issues, or with prams, who may benefit most from enforcement of the dropped kerb and footway parking prohibitions. This should also assist in improving accessibility for the community, for accessing public transport and for active travel.

Climate Change and Carbon

- 4.5 There are no direct climate change and carbon implications from this report however the enforcement of parking regulations may encourage more use of public transport and help reduce carbon emissions.

Key Priorities

- 4.6 Wellbeing – ensure our places and spaces where we live, work and visit are well maintained and accessible.

Community Wealth Building

- 4.7 None

5. Consultation

- 5.1 An elected members briefing was held on 5 October 2023 to provide information on DPE and the Pavement Parking Ban. This included the criteria that must be met to consider exemptions from the Pavement Parking Ban. Members have further provided details of locations that they consider may require assessments with regard to displacement into nearby streets. A further elected members update on the implementation of DPE was issued on 29 February 2024.

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For further information please contact **Thomas Reaney, Head of Service (Neighbourhood Services)**, on **01294 324570**.

Background Papers

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