

The background of the slide features the Falkirk Council Coat of Arms. It consists of a shield divided into four quarters. The top-left quarter shows a castle tower, the top-right shows a stag's head, the bottom-left shows a ship, and the bottom-right shows a lion. Above the shield is a crown with four fleurs-de-lis. Below the shield is a ribbon with the motto 'A'NE FOR A'.

Agenda Item 4

**THE FALKIRK COUNCIL (ON-STREET
PARKING SPACE FOR DISABLED
PERSONS)(No TRO/DB/16/068)
ORDER 2016 – DEVON STREET,
GRANGEMOUTH**

FALKIRK COUNCIL

**Subject: THE FALKIRK COUNCIL (ON-STREET PARKING SPACE FOR
DISABLED PERSONS)(No TRO/DB/16/068) ORDER 2016 – DEVON
STREET, GRANGEMOUTH**
Meeting: PLANNING COMMITTEE
Date: 23 February 2017
Author: DIRECTOR OF DEVELOPMENT SERVICES

Ward: Grangemouth (Ward 2)

**Local Members: Baillie Joan Coombes
Councillor David Balfour
Councillor Allyson Black
Councillor Robert Spears**

Council Officer: Russell Steedman – Network Co-ordinator

1. INTRODUCTION

- 1.1 This report seeks a decision on The Falkirk Council (On-Street Parking Space for Disabled Persons)(No TRO/DB/16/068) Order 2016, the purpose of which is to reserve a parking space on Devon Street, Grangemouth for disabled persons. In terms of the Council's Scheme of Delegation, this decision requires to be made by Committee as an unresolved objection has been received to the making of the Order. In terms of the relevant legislation, the authority requires to consider all objections made and not withdrawn before making the Order.
- 1.2 Members should be aware that it is available to them to call for a hearing on the Order should they find themselves unable to determine whether the Order should be made or not at this stage. Such a hearing would be conducted by an independent party appointed by the Council from a list of persons compiled by the Scottish Ministers for that purpose. Members would then need to consider the report and recommendation of the Reporter before making a determination.

2. BACKGROUND

- 2.1 Falkirk Council currently provides on-street parking spaces in residential areas, enforceable by virtue of a traffic regulation order, for people with a disability who are in receipt of a Blue Badge and who meet the criteria as laid down in the Disabled Persons' Parking Place (Scotland) Act 2009 (the 2009 Act).

- 2.2 It should be noted that, although a disabled parking place is marked as a result of an application by an individual, any person who legally displays a Blue Badge on their vehicle may park in the bay.
- 2.3 On receipt of an application for a disabled bay, the 2009 Act requires Falkirk Council to decide whether it is possible to identify a suitable street parking place from which there is convenient access to the applicant's address. An assessment identified that the applicant's vehicle was generally parked outside their house on Devon Street. In terms of road safety or traffic congestion, there are no issues which would prevent a disabled bay being provided in this area of carriageway.

3. PROPOSAL

- 3.1 Following the necessary checks against the criteria laid down in the 2009 Act, the statutory procedure for promoting a traffic regulation order was initiated. In accordance with the 2009 Act an advisory bay was marked in response to the application by the eligible person prior to the Order being made.
- 3.2 In accordance with Local Authorities Traffic Orders (Procedure) (Scotland) Regulations, 1999, notices of intention were posted on-street and in the local press in the prescribed manner on 29 September 2016.

4. CONSULTATION

- 4.1 Correspondence was received, before the objection period in September 2016, regarding the location of the advisory space. The anonymised correspondence and Development Services' responses are attached in appendix A.
- 4.2 One email of formal objection was received on 5 October 2016 together with further correspondence in connection with the formal objection. The anonymised objection and correspondence together with Development Services' responses are attached in Appendix B.
- 4.3 The objector was asked to withdraw their objection, if minded to do so, to allow the Order to progress.
- 4.4 The objection has not been withdrawn.

5. CONCLUSION

- 5.1 The purpose of Falkirk Council's policy is to provide a parking space for a disabled person who meets the requirements of the 2009 Act. The 2009 Act requires local authorities to consider road safety and congestion as part of the application process. The proposed location is considered satisfactory bearing in mind these considerations.

- 5.2 The applicant for whom this Order was promoted meets the current assessment criteria for obtaining a disabled person's parking space in accordance with the 2009 Act.

6. RECOMMENDATION

- 6.1 **Members are asked to consider the terms of the report including the objection and determine whether the Order should be made.**

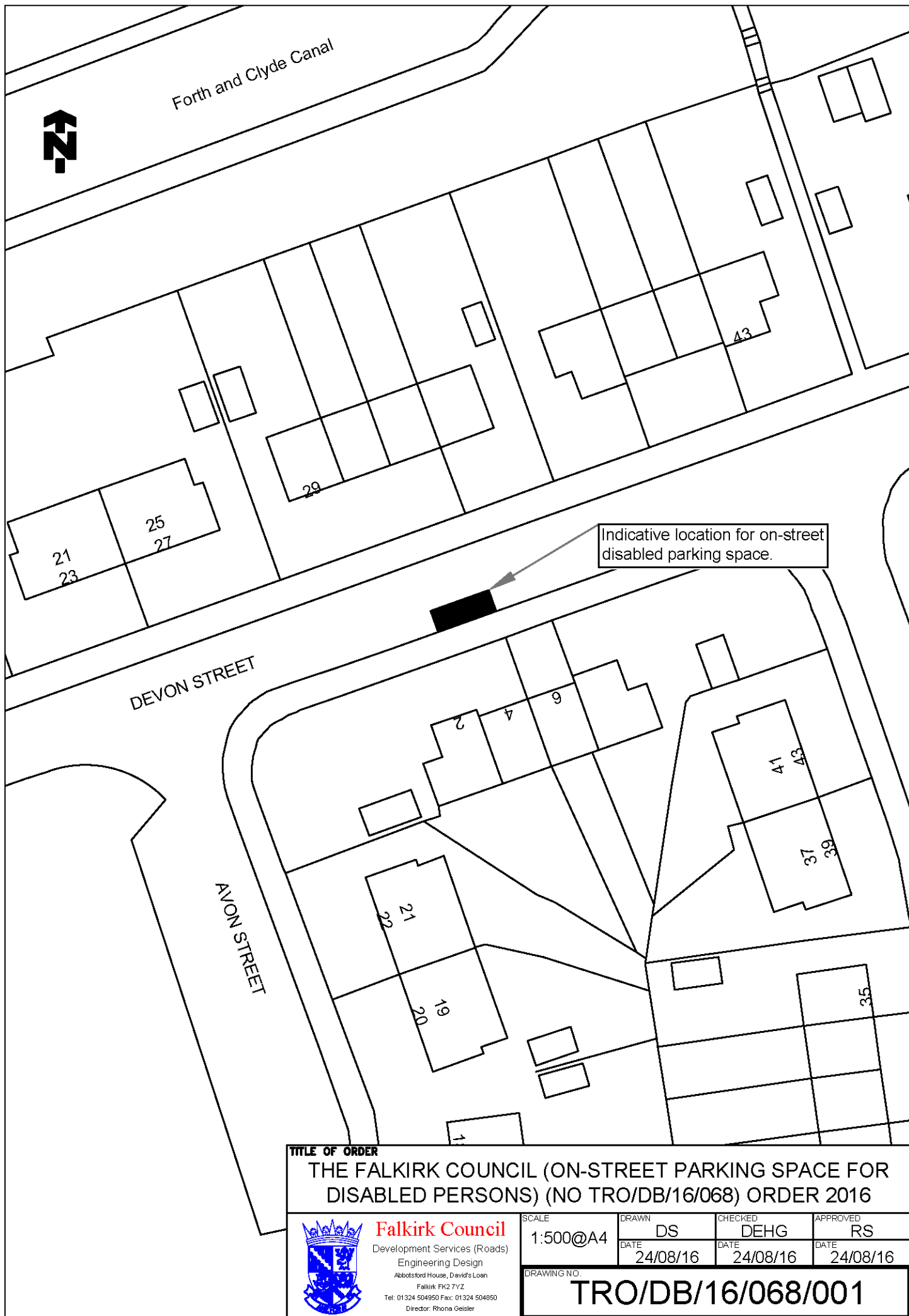
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Director of Development Services
Date: 06 February 2017


Contact Officer: Russell Steedman, Network Co-ordinator Tel: Ext 4830

LIST OF BACKGROUND PAPERS

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act 1973:

1. The Falkirk Council (On-Street Parking Space for Disabled Persons)(No TRO/DB/16/068) Order 2016
2. Letter of objection and correspondence



TITLE OF ORDER THE FALKIRK COUNCIL (ON-STREET PARKING SPACE FOR DISABLED PERSONS) (NO TRO/DB/16/068) ORDER 2016				
 Falkirk Council Development Services (Roads) Engineering Design Abbotsford House, David's Loan Falkirk FK2 7YZ Tel: 01324 504950 Fax: 01324 504950 Director: Rhona Geisler	SCALE 1:500@A4	DRAWN DS DATE 24/08/16	CHECKED DEHG DATE 24/08/16	APPROVED RS DATE 24/08/16
	DRAWING NO. TRO/DB/16/068/001			

APPENDIX A

PRE-OBJECTION CORRESPONDENCE (ANONYMISED) AND DEVELOPMENT SERVICES' RESPONSES

Correspondence 05 September 2016	Query, a disabled space has been setup at neighbours next to my home and I was never given any notification of it in order to lodge any objection, this surely isn't proper procedure?
Development Services' Response 08 September 2016	<p>Falkirk Council provides on-street disabled parking spaces as required by the Disabled Persons' Parking Places (Scotland) Act 2009.</p> <p>Applications for on-street disabled spaces received by the Council are assessed using the requirements set out in the above Act. If an applicant meets the requirements the Council must mark an advisory disabled space and begin the Traffic Regulation Order process necessary to make the space enforceable.</p> <p>In terms of the space in Devon Road, Grangemouth, I can advise that an application has been received from an eligible person and meets the requirements of the above Act. The advisory space has been marked and the statutory process for the traffic regulation order has commenced. Accordingly, the order will be advertised, online, on-street and in the Falkirk Herald, on 29 September 2016. Should you wish to object to the traffic regulation order, details, on how to object will be indicated in the public notice.</p>
Correspondence 08 September 2016	Is it not the case that the TRO should be advertised before instatement of the parking bay to allow any objections before that, also please note not only has it already been "marked" PRIOR to issue of a corresponding TRO it also extends past the building line of the resident who has been granted it over the building line of my property. No consultation has taken place to the immediate next door neighbour (me).
Development Services Response 16 September 2016	<p>The space marked on Devon Street, Grangemouth has been marked in accordance with the Disabled Persons' Parking Places (Scotland) Act 2009. The 2009 Act requires local authorities to provide a disabled persons parking space as soon as reasonably practicable after deciding that a space can be provided.</p> <p>Additionally, where a property is adjacent to the public road the resident does not have the right to park in front of the property. Where a property is not wide enough to accommodate a disabled space then it may extend beyond the building line of the applicants property.</p>

APPENDIX B

OBJECTION AND ASSOCIATED CORRESPONDENCE (ANONYMISED) AND DEVELOPMENT SERVICES' RESPONSES

<p>Objection</p> <p>05 October 2016</p>	<p>I have already had correspondance to and from yourselves regarding this space and am waiting confirmation from you regarding its positioning in front of Non-Applicants property being inappropriate, I understand your last reply stated it was incorrectly placed and that an instruction had been issued to move it, I have also responded to that and await yor reply to my objections as previously emailed to you.</p>
<p>Development Services' Response</p> <p>02 November 2016</p>	<p>I refer to your letter of objection dated 05 October 2016, to the above proposed traffic regulation order.</p> <p>I understand that your ground for objection is as follows, together with my response:</p> <ul style="list-style-type: none"> <p>The proposed location of the space overlaps the frontage of your property</p> <p>The road in front of your property forms part of the public road which has been adopted by Falkirk Council. The public road may be used by any vehicle permitted to be on the road. Consequently, residents do not have control of the road space outside their property.</p> <p>You have previously been notified that the space has been marked in the incorrect location and will be moved to the correct location. This will be line with the Council's road marking contractors resources. The space will be moved so that the eastern most extent of the space will be moved to the boundary between 4 and 6 Devon Street, the western extent of the space will be 6.6 metres west of the boundary between 4 and 6 Devon Street. It is considered that this location is convenient for the applicant for the disabled space in terms of the Disabled Persons' Parking Places (Scotland) Act 2009.</p> <p>In order to allow the legal process of creating a Traffic Regulation Order to continue and the traffic regulation order to be made, either any objection made to the proposed order must be withdrawn or, failing that, a report placed before committee for elected members to consider the objection and determine the outcome.</p> <p>With the above information in mind, should you be minded to do so, I would respectfully ask that you withdraw your objection to the traffic regulation order by completing and returning the attached form in the reply paid envelope or emailing adteam3.ds@falkirk.gov.uk quoting the above reference.</p>

Correspondence 13 October 2016	<p>Hi, in reference to my recent objection to the placement of the disabled parking space I'd like to further raise issue with it for the following reasons.</p> <p>1) The council acknowledged to me by letter on 30th September 2016 that the space had been incorrectly marked 0.5 metres west of its intended location and that an instruction had been raised with the contractor to correct it, and I note that this still hasn't happened, Also my measurements did not concur with the 0.5 metre measurement, i responded by letter having measured it at 1.2 metres too far west.</p> <p>2) I have had no response to my objections thus far and yet the TRO process has been started.</p>
Correspondence 24 October 2016	<p>Had no response yet again to this enquiry, and please note thi is not only an objection as you have logged, it is a general enquiry looking for an explanation as to why a letter was sent to me informing me of the spaces incorrect placement by the Council and your subsequent instruction to your contractor to correct it and this has still not yet been done.</p>
Development Services' Response 28 October 2016	<p>I refer to your email of 24 October 2016 regarding the above. This has been dealt with as a 1st stage complaint in accordance with the Council's complaints procedure.</p> <p>In accordance with the Disabled Persons' Parking Places (Scotland) Act 2009, Falkirk Council is satisfied that the person making the request for a disabled space is a qualifying person and has identified a suitable street parking place from which there is convenient access to the person's address. Accordingly, the Council is required to start the statutory procedure for the making of a disabled street parking order in respect of a parking place and must, as soon as reasonably practicable, designate the parking place as an advisory disabled street parking place.</p> <p>As advised in my letter of 30 September 2016 the space has been marked in the incorrect location. The space will be moved as our lining contractors work schedule permits.</p> <p>The eastern most extent of the space will be moved to the boundary between 4 and 6 Devon Street, the western extent of the space will be 6.6 metres west of the boundary between 4 and 6 Devon Street.</p> <p>The objection you have made to the disabled space will be responded to separately in due course in accordance with</p>

	<p>The Local Authorities' Traffic Regulation Order (Procedures) (Scotland) Regulations 1999.</p> <p>This letter completes the first stage of the Council's complaints procedure. If you remain dissatisfied, the matter will be investigated as a stage two complaint in line with the Council's complaints procedure. The Council's complaints procedure can be found on the Council's website by searching for complaints procedure.</p>
Correspondence 03 November 2016	<p>The objection I have made will NOT be withdrawn by me, for as previously explained reasons, the markings/space could be moved and actually more convenient to the user and applicant of it as well as not in front of my property windows, the issue of it being in front of our lounge window is a matter of poor courtesy on the part of the council, and moving it further in the direction away from my windows would be :-</p> <ol style="list-style-type: none"> 1) Simple courtesy. 2) Would be less obtrusive to me. 3) Actually closer to the applicants property exit and therefore more convenient to the allegedly "disabled" applicant. 4) Would not also be of any detriment to the opposite neighbour at number 6 Devon street. 5) less expensive to the council, as I am sorry to hear that it will now have to go in front of a panel of elected members, due to me not withdrawing my objections. <p>I will reconsider my withdrawal of my objections if the space is moved to a more amenable position for all parties concerned who live here, and not just put where it is for the sake of easiness for the council, it is ultimately the councils responsibility to ensure that applications are fair, reasonable, and not upsetting in any way to neighbour that are affected in whatever small capacity.</p>
Development Services' Response 09 November 2016	<p>I note that you do not intend to withdraw your objection. Consequently, a report will be placed before the Planning Committee to allow elected members to consider any objections and determine the outcome. You will be notified of the outcome in due course.</p> <p>I can also confirm that the space was moved on 08 November 2016 to the location advised in my letter of 30 September 2016.</p>