

The background of the slide features the Falkirk Council Coat of Arms. It is a shield divided vertically. The left half shows a ship on wavy water. The right half shows a castle tower. 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 SPACES FOR DISABLED
PERSONS)(REVOCATION NO. 633)
ORDER 20__ – BRAEMAR DRIVE,
FALKIRK**

FALKIRK COUNCIL

**Subject: THE FALKIRK COUNCIL (ON-STREET PARKING SPACES FOR
DISABLED PERSONS)(REVOCATION NO. 633) ORDER 20__ –
BRAEMAR DRIVE, FALKIRK**
Meeting: PLANNING COMMITTEE
Date: 19 February 2020
Author: DIRECTOR OF DEVELOPMENT SERVICES

Ward: Falkirk North (Ward 6)

**Local Members: Councillor David Alexander
Councillor Robert Bissett
Councillor Dennis Goldie
Councillor Cecil Meiklejohn**

**Community Council: Grahamston, Middlefield and Westfield Community
Council**

Council Officer: Russell Steedman – Network Co-ordinator

1. INTRODUCTION

- 1.1 This report seeks a decision on The Falkirk Council (On-Street Parking Spaces for Disabled Persons)(Revocation No. 633) Order 20__, the purpose of which is to remove a disabled persons parking space outside 17 Braemar Drive, Falkirk. 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 In terms of the relevant legislation, the authority requires to consider all objections made and not withdrawn before making the Order.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 reporter appointed by the Council from a list of persons compiled by the Scottish Ministers for that purpose. Members would then need to consider their report and recommendation 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). When the space is no longer required, a revocation traffic regulation

order is required to remove the space ensuring other road users can utilise the area for parking.

- 2.2 It should be noted that, although a disabled parking place is marked as a result of an application by a qualifying person, any person who legally displays a Blue Badge on their vehicle may park in the bay. The 2009 Act identifies a qualifying person as a person residing at the location with a vehicle registered to the address.
- 2.3 As part the Council's Decriminalised Parking Enforcement preparatory works it was noted that several existing disabled bays throughout the Council area did not have a blue badge traffic sign associated with them. Whilst in the process of installing these signs, Development Services were subsequently contacted by several residents throughout the Council area to advise that, for various reasons, some of the disabled bays were no longer required.
- 2.4 In light of these enquiries, the Council commenced the statutory process to remove 29 disabled bays, including the bay located outside 17 Braemar Drive.
- 2.5 A single letter of objection dated 20 February 2018 to the revocation of the disabled bay in Braemar Gardens was received within the statutory objection period. The anonymised content of the objection is attached in Appendix A. The objector, a resident from Campfield Street in Falkirk, objected on the grounds that the disabled bay was useful for him when he visited a property he owned in Braemar Drive and that he was of the opinion that the bay was regularly used and its removal would inconvenience several people.
- 2.6 Given the contents of the objection to the removal of the disabled bay on Braemar Drive, it was decided to remove this particular revocation from the multiple disabled space revocation Order to allow the other disabled spaces to complete their statutory revocation process. The objector was advised in writing as to the reasons for revoking the disabled bay and of the proposal to defer the decision to revoke this particular bay.

3. PROPOSAL

- 3.1 Following subsequent checks against the criteria laid down in the 2009 Act, the statutory procedure for promoting a traffic regulation order to revoke the space was recommenced in August 2018.
- 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 27 September 2018.

4. CONSULTATION

- 4.1 One letter of objection was received, dated 5 October 2018, this objection being received by the same objector as previous. The anonymised content of the objection is attached in Appendix A.

- 4.2 A subsequent telephone discussion with the objector, during which a full explanation as to the reasons for revoking the disabled bay was discussed, the objector confirmed that he did not wish to withdraw his objection.
- 4.3 The objector also reiterated that they were of the opinion that the reason observations on the use of the disabled bay did not indicate it was being used by Blue Badge holders was due to it being used by drivers not in possession of a Blue Badge.
- 4.4 Although there are several residents on Braemar Drive in possession of a Blue Badge, no objections have been received from Braemar Drive residents to the proposed removal of the disabled bay.
- 4.5 The objection has not been withdrawn.

5. CONCLUSION

- 5.1 The objector's comments are not considered to satisfy the requirements of the 2009 Act regarding a qualifying person as described in paragraph 2.2.
- 5.2 This Order was promoted to meet the requirements of the 2009 Act in removing the disabled persons parking space when it is no longer required as defined in aforementioned 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: 7 February 2020

Contact Officer: Russell Steedman, Network Co-ordinator Tel: 504830
Email: russell.steedman@falkirk.gov.uk

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)(Revocation No. 633) Order 20__
2. Letters of objection and correspondence.

APPENDIX A

OBJECTION (ANONYMISED) AND DEVELOPMENT SERVICES RESPONSE

OBJECTIONS (ANONYMISED) AND DEVELOPMENT SERVICES RESPONSE

<p>Objection 1 dated 20 February 2018</p>	<p>I would like to raise an objection to the proposed removal of the disabled parking bay which is outside Braemar Drive, Falkirk. I am a registered disabled driver and find this parking space very useful. The parking area is used on a regular basis and I'm sure will inconvenience several people. Please reconsider this and I hope you can respond to this letter as soon as possible.</p>
<p>Development Services response of 2 August 2018</p>	<p>I refer to your objection letter dated 20 February 2018 and to our subsequent response of 21 February 2018 regarding the above traffic regulation order.</p> <p>Before a disabled bay can be removed, a revocation Order must be made. Falkirk Council is required to follow the same statutory procedure to remove a disabled bay that is used to promote a traffic regulation order to provide the disabled bay in the first place. The above draft Order contained several disabled bays located throughout the Council area that were proposed to be removed.</p> <p>The statutory procedure for making a revocation Order allows two periods where interested parties may firstly object to the proposals and then question the validity of the Order itself.</p> <p>I understand that the basis of your objection is that you use the disabled bay whilst visiting a property on Braemar Drive, and that the bay is used on a regular basis and its removal will inconvenience several people. As a result of your objection the proposed removal of the disabled bay located outside 17 Braemar Drive was previously withdrawn from the above draft Order to allow further surveys to be undertaken.</p> <p>As you will be aware, a disabled persons' parking place is provided for applicants who park their vehicle on-street. Parking in residential areas is often in heavy demand. If a disabled persons' parking place was provided or indeed left in place where it is not used overnight or for long periods, other residents who may be frustrated with difficulties finding a parking space may start to park in a disabled bay. This may then have a knock-on effect for disabled bays elsewhere. Recent surveys have indicated that the disabled bay located outside 17 Braemar Drive is not used overnight by a Blue Badge holder.</p> <p>As a result of this, the statutory process, as explained above, to allow the disabled bay located outside 17 Braemar Drive in Falkirk to be removed will now be progressed by promoting a revocation order for this location alone.</p> <p>I trust the above provides sufficient explanation of the Council's</p>

	<p>intended course of action in relation to your objection. You will, however, have the opportunity to object to the new revocation order, if you are minded to do so, in accordance the statutory procedure.</p>
<p>Objection 2 dated 5 October 2018</p>	<p>Many thanks for your written response dated 2 August to my objection letter from 20 February.</p> <p>Your explanation on the revocation orders and statutory procedures were helpful however I feel I must write to you again to clarify my objections as I feel they have been misunderstood.</p> <p>As a blue badge holder myself, and the owner of the property 18 Braemar Drive, I have placed an objection on the basis that the removal of the disabled bay would inconvenience the residents who are eligible to use this space (ie have a current blue badge)</p> <p>I was grateful you took time to investigate this by conducting further surveys. However, I must disagree with your comment that “recent surveys have indicated that the disabled bay outside number ■ is not used overnight, by a blue badge holder”. To my knowledge, the disabled bay is used every night by the resident at number ■ who does not have a blue badge, and as such, this means that the space cannot be used by anyone who does have a blue badge!</p> <p>During your surveys, you will not have had a chance to see the space being used by a blue badge holder as it is mostly taken by the resident at number ■ and blue badge holders cannot access it. There is another disabled bay a few yards further up the street – has there been any kind of mix up during the investigations. The disabled bay is very faintly marked – perhaps this is the problem?</p> <p>Whilst I appreciate, and agree with your comment that “parking in residential areas is often heavily in demand”, I find the comment “other residents who may be frustrated with the difficulties finding a parking space may start to park in a disabled bay” completely irrelevant to my objection letter. While it may be true that residents do this, it is nonetheless completely unacceptable that they do. It is also against the rules to use a disabled bay in this way and it is another matter entirely for the council to deal with. This comment should not stand as a reason to remove the disabled bay. Due to the above reasons, I feel I have no option but to write this additional letter to you as a second formal objection to the contents of the Order to revoke the disabled bay in Braemar Drive, Falkirk.</p> <p>I have also spoken to my local councillor about this matter as it has been ongoing for approximately 8 months now. I will also look forward to hearing from you on the matter at your earliest convenience. Please feel free to contact me on the above number if you need to.</p>