

ANGUS COUNCIL

ROADS COMMITTEE - 29 AUGUST 2002

**ANGUS COUNCIL (OSNABURG STREET, FORFAR)
(VARIATION OF WAITING RESTRICTIONS) ORDER 2001**

REPORT BY THE DIRECTOR OF LAW AND ADMINISTRATION

ABSTRACT

This Report relates to the preparation of an Order introducing no waiting at any time parking restrictions on both sides of Osnaburg Street, Forfar.

1. RECOMMENDATION

The Committee are asked to consider the objection and, should it see fit, to recommend to the Council the making of this Order.

2. INTRODUCTION

Reference is made to Article 9 of the minute of meeting of the Roads Committee held on 25 January 2001 authorising the preparation of an Order to introduce no waiting at any time restrictions on both sides of Osnaburg Street, Forfar

3. CONSULTATION AND PUBLICATION

No adverse comments were received following the consultation exercise.

4. PUBLICATION

The draft Order was advertised on 23 November 2001 and two letters were received in response to this. Following consideration of the letters by the Acting Director of Roads and the Chief Constable, a letter of explanation was sent to the parties involved. One of the letters was withdrawn leaving one letter of objection remaining from Mr J W King, No 1 Osnaburg Street, Forfar (copy attached).

The Director of Roads has considered Mr King's letter of objection. He advised that due to the narrow carriageway width and lack of a formal turning area, the existing parking situation results in long reversing movements and the mounting of the footway by vehicles which is potentially hazardous for vehicular and pedestrian traffic. Whilst the Director of Roads is sympathetic to the residents parking situation, he does not support the introduction of a residents parking scheme as such schemes are generally difficult to administer and enforce. There is currently only one residents' parking scheme in the whole of Angus and this happens to be close to Osnaburg Street in Littlecauseway, Forfar. The residents only parking arrangement which exists in Littlecauseway is one which the Council has inherited and is accepted as such. However it is not a situation which the Director of Roads is willing to support elsewhere within the Council area. The Chief Constable is in agreement with the views of the Director of Roads who recommends that the Order be made as drafted.

5. FINANCIAL IMPLICATIONS

There are no financial implications arising from this Report.

6. HUMAN RIGHTS IMPLICATIONS

Article 1 of the First Protocol of the European Convention on Human Rights is relevant to this Report. If Osnaburg Street is typical of other public roads, the solum of the road may be included in the titles of the frontage properties. However, also like any other public roads, and under the terms of the Roads (Scotland) Act 1984, Osnaburg Street vests in the Council for the purposes of its functions as Roads Authority. Thus although the frontagers may have ownership of the solum of the road they do not in fact have possession of the road for practical purposes. This is demonstrated by the fact that ownership of the solum of the road does not confer on the frontagers any territorial claim or special privilege with regard to the available on-street parking space on the public road ex adverso their property.

The recommendation in this Report is justified in relation to Article 1 by the qualification to this Article which allows the Council to take such action as it deems necessary to control the use of property in accordance with the general interest. Any such action must be proportionate i.e. there should be as little interference as possible by the Council to achieve the desired aim. It is considered that the recommendation in this Report meets this requirement and that in taking such action the Council is not acting in any way which is incompatible with Human Rights.

Catherine A Coull
DIRECTOR OF LAW AND ADMINISTRATION

Note: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above Report are contained in file TA/1/150.