

### Potential modifications to the Order (for consideration during the hearing, agenda item 5d)

(a) Arising from correspondence I have had with the Council prior to the hearing, the Council wishes me to recommend modifications to the Order as at refs 1-9 below. The modifications at refs 8 and 9 are subject to discussion at the hearing and my further consideration.

Ref	Location of text in Order	Text before modification	Text after modification
1	Article 2	<i>"To make provisions in relation to the on street parking within Luss, and revoke Orders ..."</i>	<i>"To make provisions in relation to driving and on-street parking within Luss, and revoke Orders ..."</i>
2	Article 3(ii), definition of "invalid carriage"	"... adopted ..."	"... adapted ..."
3	Article 3(ii), definition of "motor cycle"	"... as defined Section 136 ..."	"... as defined in Section 136 ..."
4	Article 3(ii), definition of "parking attendant"	"... as defined by in Section 63A ..."	"... as defined in Section 63A ..."
5	Article 3(ii), definition of "parking place"	"... Article 4 ..."	"... Article 16, Schedule 5 and Schedule 8 ..."
6	Article 3(ii), definition of "Qualifying person"	"... a resident and business user that meet the eligibility criteria to apply for parking permit outline in article 34 ..."	"... a resident or business user who meets the eligibility criteria to apply for a parking permit outlined in article 34 ..."
7	Article 40	"... Schedule 6 ..."	"... Schedule 7 ..."
8	Schedule 6, "Resident Parking Permit" line	"£98 ..."	"£45 ..."
9	Schedule 6, "Business Parking Permit" line	"£98 ..."	"£45 ..."

(b) On ref 10, arising from correspondence prior to the hearing, I now put forward an alternative to the Council's suggested wording for consideration at the hearing

Ref	Reporter's communication to Council	Council's response	Reporter's alternative suggestion
10	"... the Reporter notes that the Council wishes him to modify the Order to make reference to section 3 of the Road Traffic Regulation Act 1984. The most the Reporter could do in this respect is to recommend an appropriate modification, and he is prepared to give consideration to doing so... In order to progress this matter, he suggests that the Council	Modify Article 2 by inserting the following words after the word "hereto.": <i>"The Council is satisfied that for the reasons set out in section 3(2)(a), 3(2)(b) and 3(2)(c), it is required that section</i>	Modify Article 2 by inserting the following words after the word "hereto.": <i>"The Council is satisfied that for the reasons set out in section 3(2)(a), 3(2)(b) and 3(2)(c) of the Road Traffic Regulation Act 1984, it is</i>

<p>takes early steps to provide the Reporter with</p> <p>(a) suggested wording of an appropriate modification which makes clear which of the five purposes in section 3(2) of the 1984 Act is invoked, and</p> <p>(b) a statement of reasoned justification for the modification.</p>	<p><i>3(1) should not apply to the Order."</i></p>	<p><i>required that section 3(1) of that Act should not apply to the Order."</i></p>
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(c) On refs 11 and 12, the Council does not accept my suggestions in correspondence prior to the hearing. I may wish to raise these matters at the hearing.

Ref	Reporter's communication to Council	Council's response
11	<p>The Reporter wonders whether the Council is satisfied that all of its references to the "owner" and "registered keeper" of a vehicle are correct. The references to "owner" appear in articles 3(ii), 30(a), 30(b), and 34.1. The references to "registered keeper" appear in articles 3(ii), 31 and 32. The Reporter draws particular attention to the definition of "registered keeper" in article 3(ii), where it says that the registered keeper is not necessarily the owner. But the definition of "owner" in article 3(ii) says effectively that the owner is the keeper. The Reporter also draws attention to article 30(a) which refers to the Council making enquiry of the DVLA about ownership, whereas it is the Reporter's understanding that the DVLA holds records of keepers of vehicles, not of owners. Is there a case for the TRO (a) to refer to "registered keepers" only and not at all to "owners", (b) to define "registered keeper" as "the person responsible for making sure a motor vehicle is properly registered, taxed and insured and is not necessarily the owner of the vehicle" (which is how a vehicle's registration document defines a "registered keeper"), and (c) to make appropriate modifications?</p>	<p>The Council are comfortable with the current wording as the registered keeper and owner can be different, we do not propose any changes at this time.</p>
12	<p>The Reporter questions the validity of restricting the furniture removals exception to the driving prohibition in articles 5(f) and 12 to offices, dwelling houses and depositories. He wonders whether that exception should apply to any premises, whatever the use, and therefore whether the TRO should be modified accordingly. He seeks the Council's view on this.</p>	<p>The Council are comfortable with the current wording and feel that our wardens have discretion to make decisions on the validity of PCNs being issued.</p>

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 26 July 2022