

**THE CHERWELL DISTRICT COUNCIL (BANBURY BUS STATION)
ORDER 1999**

The Cherwell District Council (hereinafter referred to as "the Council") in exercise of their powers under Sections 32 and 35 and Part III of Schedule 9 of the Road Traffic Regulation Act 1984, (which the said Act of 1984 is hereinafter referred to as "the Act of 1984") and of all other enabling powers, after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 of the Act of 1984, with the Traffic Commissioners, in accordance with Part V of Schedule 9 of the Act of 1984, and with the consent of the Oxfordshire County Council in accordance with Section 39(3) of the Act of 1984 hereby make the following Order:-

PART I

IMPLEMENTATION, CITATION AND DEFINITIONS

1. This Order may be cited as "The Cherwell District Council (Banbury Bus Station) Order 1999" and shall come into operation on the sixth September, 1999.
2. The Cherwell District Council (Banbury Bus Station) Order 1998 is hereby revoked.
3. In this Order, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them:-

"Council" means the Cherwell District Council;

"departure bay" means any area of the parking place which is provided for the waiting of public service vehicles in service for the carriage of passengers;

"departure charge" means the charge for the use of the departure bays;

"driver" in relation to a vehicle left in the parking place, means the person driving the vehicle at the time it was left in the parking place;

"excess charge" in relation to the parking place means the amount specified in Article 33 this Order;

"local service" has the same meaning as in Section 2 of the Transport Act 1985;

"long distance service" means a service which carries passengers, the majority of w travel to or from points outside Oxfordshire and exceeds fifteen miles;

"owner" has the same meaning as in the Act;

“parking place” means the parking place described in the Schedule to this Order, provided by the Council under Section 32(1) of the Act of 1984;

“parking warden” means a person authorised by or on behalf of the Council to supervise the parking place or to regulate the use of the parking place as circumstances so demand;

“passenger vehicle” means a motor vehicle (other than a motor cycle or invalid carriage) constructed solely for the carriage of passengers and their effects and adapted to carry not more than twelve passengers exclusive of the driver, and not drawing a trailer and having the same meaning as public service vehicle as referred to in this Order;

“penalty charge” in relation to the parking place means the amount specified in Article 33 of this Order;

“permitted vehicle” means any light goods vehicle, dual purpose vehicle or passenger vehicle;

“public service vehicle” has the same meaning as in Section 1 of the Public Passengers Vehicles Act, 1981;

“relevant date” means the date upon which any vehicle is or was parked in the parking place or upon which any event occurs or occurred in breach of any of the provisions of this Order or to which this Order relates;

“relevant position” means for the purpose of this Order:-

- (a) in the case of a vehicle fitted with a front glass windscreen, with the obverse side of the ticket notice or badge, as the case may be, facing forwards on the rear side of and immediately behind the windscreen; or
- (b) in the case of a vehicle not fitted with a front windscreen in a conspicuous position on the vehicle;

“registered keeper” means the person in whose name the vehicle was registered under the Vehicle Excise and Registration Act 1994;

“vehicle” means any vehicle as defined in Section 136(1) of the Act.

“vehicular aisle” means the whole of the area of the parking place other than the departure bays or any buildings or structures;

4. (1) Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.

(2) The restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirement imposed by any other regulations.

5. This Order relates to the parking place described, and shown on the appended plan, in the Schedule to this Order.

PART II

USE OF PARKING PLACE

6. (1)(a) The parking place specified in the Schedule to this Order is authorised to be used by Public Service Vehicles, subject to the following provisions of this Order, for the setting down and picking up of passengers undertaking journeys on local and long distance services in such positions and on payment of the departure charges specified for the parking place and for the waiting, for the relevant period specified by the Council, of public service vehicles temporarily not in service, and the parking place shall not be used by any person for any other purpose whatsoever, unless so authorised in writing by the Council.

(b) Section 35A(5) of the Act shall not apply to public service vehicles using the parking place.

(2)(a) Any right of passage within the parking place specified in the said Schedule is available only to persons driving or being conveyed in public service vehicles and does not extend to pedestrians and no rights of way whatsoever over the said parking place other than for the purposes of the setting down and/or the picking up of passengers or the waiting of public service vehicles temporarily not in service shall be deemed to have been granted by the Council by virtue of this Order.

(b) No person on foot shall enter at any time the vehicular aisle which is designated for vehicle manoeuvring purposes only and all such persons shall when in the parking place keep to the signed pedestrian routes.

(3) No person other than a person authorised by the Council, the driver or a passenger, of a public service vehicle waiting in the parking place, or other person authorised by such driver, shall enter the parking place for any purpose whatsoever.

7. (1) A person shall not drive in the parking place a motor vehicle or other authorised vehicle unless he or she is the holder of a licence authorising him or her to drive such vehicle of its class or description on a road.

(2) The driver of a vehicle shall not permit that vehicle to wait in the parking place unless the vehicle is licensed in pursuance of the provisions of the Vehicle Excise and Registration Act 1994 and unless there is in relation to the use of the vehicle by the driver such a policy of insurance as complies with the requirements of Part VI of the Road Traffic Act 1972.

8. A person shall not drive in the parking place a motor vehicle at a speed exceeding that officially notified by way of signs or in the absence of such signs at a speed exceeding ten miles per hour.

9. The driver of any vehicle in the parking place shall comply with any instruction given, by a duly authorised person, by direction signs or in any other manner as to the route to be followed within the parking place.

10. (1) Where in the Schedule to this Order the parking place is described as available to public service vehicles only, the driver of any other vehicle shall not permit it to enter or

wait in the parking place unless it is duly authorised to do so by the Council and where a vehicle not of the authorised class parks in the parking place the driver thereof shall be liable for the payment of the penalty charge specified in Article 33 of this Order.

(2) A person shall not enter, drive or manoeuvre a public service vehicle in the parking place unless the vehicle is fitted with an audible reversing alarm, sounder or similar device.

(3) A driver of a vehicle using the parking place shall not park the vehicle in any position other than wholly within a marked departure bay indicated as being solely reserved for public service vehicles and in particular, such driver shall not park the vehicle on any space indicated by appropriate markings as being reserved for official use or to be kept clear and shall not park the vehicle at any time in such a position in any departure bay or the vehicular aisle so as to impede or obstruct vehicular movements within or the free access to and egress from the parking place.

(4) In the absence of the availability of any such designated departure bays for whatever reason, a driver of a vehicle using the parking place shall park the vehicle as directed by the parking warden if appropriate or any other duly authorised person.

(5) Where a sign or notice is displayed in the parking place prescribing the maximum height limit for vehicles permitted to use the parking place no vehicle exceeding that height may use the parking place.

11. (1) When entering, or about to manoeuvre or change position of the vehicle or to depart from the parking place, the driver shall take all reasonable care so as not to cause any danger or injury to other persons using the parking place, and shall on all occasions, when undertaking a reversing manoeuvre, activate the warning alarm or sounder as provided in Article 10(2) of this Order and, as appropriate, follow the instructions of the parking warden or any other authorised person.

(2) All vehicles shall be parked fully drawn forward face on in the departure bays to enable passengers to board and alight in safety and as soon as the vehicle is in position in the parking place the driver shall stop the engine and apply the handbrake and not release the handbrake or start the engine except when about to change the position of the vehicle in, or to depart from, the parking place.

12. Except with the written authority of the Council, the driver of a public service vehicle shall not permit it to wait in the parking place for longer than the maximum period permitted for waiting as specified by the Council.

13. No person shall cause or take part in any gathering or demonstration within the parking place, or cause any unreasonable or unnecessary noise, such as wantonly shouting or making any loud noise to the disturbance or annoyance of users of the parking place or anyone close by.

14. No person shall in the parking place use any threatening, abusive or insulting language, gesture or conduct with intent to put any person in fear or so as to occasion a breach of the peace.

15. No person shall use the parking place for the playing of any game, sport or undertake any recreational activity nor shall any pedal cycle be taken or ridden therein.

16. No person shall in the parking place cause or permit any dog or other animal belonging to him or in his charge to enter or remain in the parking place unless such dog or animal is on a lead and under proper control and effectively restrained from causing annoyance to any person and from worrying and disturbing any other animal, or foul the parking place.

17. Except with the consent of the Council no person shall in the parking place tether, drive or ride any animal.

18. No person shall in the parking place, deposit any litter or engage in any activity which can reasonably be expected to result in the deposit of litter, wilfully, carelessly, or negligently deface, damage or destroy any part of the parking place, any tree or shrub growing therein, or any wall, fence or barriers enclosing the parking place or any fitting or equipment in or on the parking place, urinate or defecate in the parking place or any part thereof.

19. No person shall in the parking place, commit any act which, if committed on a public highway, would constitute an offence under the provisions of the Environmental Protection Act 1990.

20. The driver of a vehicle while it is waiting in the parking place shall not carry out or permit to be carried out any work of cleaning, servicing, maintenance or repair to the vehicle or part thereof except such as may be necessary to enable the vehicle to be moved or depart from the parking place.

21. No horn or other similar instrument may be sounded on a vehicle using the parking place except when the position of the vehicle in the parking place is about to be changed or the vehicle is about to depart from the parking place when the warning alarm or sounder shall be activated as provided in Articles 10(2) and 11(1) of this Order.

22. Except with the written authority of the Council, no person shall use a vehicle, or anything towed by a vehicle while it is in the parking place, for camping, eating, sleeping or other domestic purposes or as a place of habitation.

23. No person shall in the parking place except with the consent of the Council, erect or cause or permit to be erected any tent, booth, stand, building or other structure.

24. Unless authorised in writing by the Council so to do no person shall, within the parking place, sell or attempt to sell any article to persons in or near the parking place, or sell or offer for hire his skill or services and shall not use a vehicle or anything towed by a vehicle while it is in the parking place or any part of the parking space for such purpose, or for the purpose of any exhibition.

25. No person shall in the parking place other than with the consent of the Council, sell or attempt to sell, hire, lease or offer for sale any vehicle or part of any vehicle or act in any manner which can be construed as such and no vehicle shall be advertised for sale while it is standing in the parking place.

26. Any person who wilfully or carelessly damages in any way or interferes with the fabric or structure or equipment of the parking place, shall be guilty of an offence under this Order and in addition to the penalty provided by Section 35A of the Act of 1984, shall be liable for the cost of repair of the damage.

27. Except with the prior written consent of the Council, no person shall distribute or affix to the exterior of any vehicle (other than that which is normally displayed on a public service vehicle) or any part thereof in the parking place or to the fabric, structure or equipment of the parking place or any part thereof any advertisement or promotional literature provided that a person shall not be guilty of an offence under this Article by reason only that his goods, trade, business or other concerns are given publicity by the advertising material if he proves that it was displayed without his knowledge or consent.

28. No person shall cause or permit the contents of any closet, urinal, lavatory, basin or sink or of any tank into which such a closet, urinal, lavatory basin or sink drains to be discharged or to leak on to the parking place or into the drainage system of the parking place.

29. No person shall light or cause or permit to be lit any fire in or on the parking place or use any part of the parking place or any vehicle left in the parking place for cooking purposes.

30. No naked lights, smoking or draining or replenishing of fuel tanks shall be permitted in the parking place.

31. (1) If in any case, owing to the presence of a motor or passenger vehicle in the parking place, an accident occurs whereby personal injury is caused to a person other than the driver of that vehicle or damage is caused to a vehicle other than that motor vehicle or to any other property whatsoever, the driver of the motor vehicle shall stop and, if required so to do by any officer, agent or servant of the Council or any other person having reasonable grounds for so requiring, give his name and address and also the name and address of the owner and the identification marks of the vehicle or vehicles.

(2) If in the case of such accident as aforesaid, the driver of the motor vehicle for any reason does not give his name and address to any such persons as aforesaid, he shall report the accident at the Banbury Police Station or to a police officer as soon as reasonably practicable and in any case within twenty-four hours of the occurrence thereof.

PART III

CHARGES

32. (1) Save as provided in part (3) of this Article each departure bay is authorised to be used subject to the payment of the relevant departure charge details of which shall be specified by the Council and displayed in the parking place.

(2) Any person who wilfully avoids or seeks to avoid, or assists in avoiding, the payment of the appropriate departure charge at the parking place shall be guilty of an offence under this Order.

(3) No vehicle other than a public service vehicle in service on a local or long distance service shall park at any time in a departure bay.

(4) No public service vehicle authorised to wait in a departure bay shall be permitted to park for longer than the maximum period specified by notice by the Council in relation to the departure bay.

33. (1) If a vehicle is left in the parking place:-

- (a) and it is not a vehicle of a class permitted to use that parking place as provided in paragraph 1 of Article 10 of this Order;
- (b) for longer than the maximum period permitted for the parking place as provided in Article 12 of this Order;
- (c) other than wholly within a marked departure bay except in those circumstances where a vehicle is permitted to park outside a marked parking bay either with the consent of the Council or at the discretion of a parking warden or an authorised officer;
- (d) without displaying a valid road fund licence disc in accordance with the provisions of the Vehicle Excise and Registration Act 1994.

the "penalty charge" and "excess charges" specified in paragraphs (2), (3) and (4) below shall apply:-

(2) A penalty charge shall be payable in respect of (a) above where the amount of the charge for the parking of a vehicle not of an authorised class shall be forty pounds (£40) (inclusive of VAT), which shall be paid to the Council within 14 days of the Penalty Charge Notice, such date being the date upon which the penalty charge was received.

(3) An excess charge (hereinafter referred to as "the excess charge") of forty pounds (£40) (inclusive of VAT) shall be payable in respect of (c) and (d) above with payment to be made to the Council within seven days of the date on which the Excess Charge Notice was received.

(4) An excess charge of ten pounds (£10) (inclusive of VAT) shall be payable in respect of (b) above with payment to be made to the Council within seven days of the date on which the Excess Charge Notice was received.

(5) In the case of a vehicle in respect of which a penalty charge or an excess charge may have been incurred, it shall be the duty of the parking warden or other authorised person to attach to the vehicle in a conspicuous position a notice which shall include the following particulars:-

- (i) the registration mark of the vehicle or, where the vehicle is being used under a trade licence, the number of the trade plate carried by the vehicle;

- (ii) the time at which he or she first noticed that the vehicle had been left in the parking place for longer than the maximum period permitted;
- (iii) a statement that a penalty charge or an excess charge of the amount specified in sub-paragraphs (2), (3) and (4) of this Article to this Order is required to be paid;
- (iv) the manner in which, and the time within which, the excess charge or penalty charge should be paid; and
- (v) a statement that it is an offence under Section 35A of the Act for the driver of the vehicle who has left the vehicle in the parking place to fail to pay the penalty charge or excess charge.

34. Nothing in Articles 32 or 33(1) of this Order shall apply so as to prevent a vehicle from remaining in a departure bay for longer than the maximum permitted period if:-

- (a) The vehicle is waiting in any case where the person in control thereof is required by law to stop;
- (b) the vehicle is undergoing essential maintenance which cannot be carried out at any other location.

35. When a notice has been attached to a vehicle in accordance with the provisions of Article 33 of this Order, no person other than a person authorised by the Council in that behalf or the driver or a person authorised by the driver in that behalf shall remove the said notice or notices.

PART IV

GENERAL PROVISIONS

36. (1) If a vehicle is left in the parking place in a position other than in accordance with the provisions of Article 10, a person authorised by the Council in that behalf may alter or cause to be altered the position of the vehicle so that its position is in accordance with the said provisions.

(2) If a vehicle is left in the parking place in contravention of any of the provisions of this Order a person authorised by the Council in that behalf may remove the vehicle from the parking place or arrange for such removal and should make arrangements as may be reasonably necessary for the safe custody of the vehicle.

(3) For the purpose of meeting the requirements of an emergency, a person authorised in that behalf by the Council or a police constable in uniform may alter or cause to be altered the position of the vehicle in the parking place or remove or arrange for the removal of a vehicle from the parking place.

(4) Any person altering, or causing the alteration of, the position of a vehicle by virtue of paragraph (1) of this Article, or removing, or causing the removal of, a vehicle by virtue of paragraphs (2) or (3) of this Article, may do so by towing or driving the vehicle or by requesting the operator thereof forthwith to alter the position of or remove the vehicle or

in such other manner as he may think reasonably necessary to enable the position of the vehicle to be altered or the vehicle to be removed.

(5) No person altering or causing to be altered the position of a vehicle or removing or arranging for the removal of a vehicle by virtue of paragraphs (1) or (2) respectively of this Article or the Council shall be liable for any loss or damage to the vehicle or to anything contained therein or thereon arising from or in consequence of the exercise of the powers contained in this Article and any expenses incurred by the Council by virtue of action taken under paragraphs (1) or (2) of this Article shall be recoverable by the Council from the driver of the vehicle summarily as a civil debt.

37. (1) Where the driver of a vehicle is alleged to be guilty of an offence to which this Order applies, the owner of the vehicle shall give such information as to the identity of the driver as he may be required to give by or on behalf of the Council; and

(2) Any other person shall, if required as aforesaid, give any information which it is in his power to give and which may lead to the identification of the driver.

(3) For the purpose of the institution of proceedings for any offence under this Order it shall be conclusively presumed (notwithstanding that the person may not be an individual) that the registered keeper of the vehicle at the relevant date shall pursuant to the provisions of Section 35A(3)(a) of the Act be deemed to be responsible for any contravention of or non-compliance with this Order unless the registered keeper can prove in any proceedings:-

- (a) that the registered keeper was neither the owner nor the keeper of the vehicle at the relevant date; or
- (b) that the vehicle was being used at the relevant date without the consent of the Registered Keeper.

Provided that the Council shall be entitled to proceed against any other person whom the Council proves to be either the owner or the keeper or the driver of the vehicle at the relevant date instead of the registered keeper.

(4) Where in any proceedings for an offence under this Order of failing to pay any charge it is proved that the amount has become due or any part of that amount has not been duly paid the Court shall order the payment of the sum not paid and any sum ordered to be paid shall be recoverable as a penalty.

38. Pursuant to Section 35A(3) of the Act the provisions of sub-sections (4), (5) and (6) of Section 47 of the Act shall apply to this Order save that references in the said sub-section of "this Section" shall be construed as references to Section 35A of the Act.

39. Notwithstanding the provisions of this Order the Council may by notice displayed on or near the parking place close that parking place or any part thereof for any period either generally or in respect of a particular class or classes of vehicles and the driver of any vehicle or of a particular class or classes of vehicles shall not use the parking place or any part thereof which has been so closed.

40. The Council shall not be responsible for any loss or damage to any vehicle, or to anything contained therein or thereon from any cause whatsoever, whilst any such vehicle is entering, within or leaving the parking place.

PART V

DISPOSAL OF VEHICLES ABANDONED IN THE PARKING PLACE

41. The Council may as respects a vehicle which has been removed from the parking place in pursuance of Article 36 of this Order, if it appears to them to have been abandoned, sell or otherwise dispose of the vehicle after having made reasonable enquiry to ascertain the name and address of the owner of the vehicle PROVIDED THAT the Council shall be deemed to have made reasonable enquiry to ascertain the name and address of the owner of any vehicle to which this Article applies if they have taken in relation to that vehicle such steps as may be prescribed by any regulations for the time being in force by virtue of the Road Traffic Regulation Act 1984, for authorising the Council to sell or otherwise dispose of the vehicle if it had been left on a road and if it appeared to the Council that it had been abandoned.

THE COMMON SEAL of the)

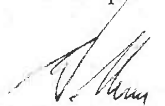
CHERWELL DISTRICT COUNCIL)

was hereunto affixed this Thirty-first)

day of August)

1999 in the presence of:-)

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Chief Legal Officer

Schedule

Parking Place Banbury Bus Station

Being the area of land, for the use of public service vehicles only, bounded to the north by the Oxford Canal to the west by the roadway serving Castle Quay Retail Centre on the south by Bridge Street and on the east by Concord Avenue comprising bus station waiting facilities, all vehicular aisles, departure bays and footways (as shown on the attached plan).

