

DATED 8th October 2020

THE DERBYSHIRE COUNTY COUNCIL

ROAD TRAFFIC REGULATION ACT 1984

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(PELHAM AVENUE - ILKESTON)

(WAITING RESTRICTIONS) ORDER 2020

SIMON HOBBS

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THE DERBYSHIRE COUNTY COUNCIL
ROAD TRAFFIC REGULATION ACT 1984
(PELHAM AVENUE - ILKESTON)
(WAITING RESTRICTIONS) ORDER 2020

The Derbyshire County Council in exercise of its powers under Sections 1,2,4, and part III and IV of schedule 9 of the Road Traffic Regulation Act 1984 ("the Act"), The Local authorities' Traffic Orders (Procedure) England and Wales Regulations 1968 and all other enabling powers hereby makes the following Order:-

1 CITATION AND COMMENCEMENT

This Order shall come into operation on the Nineteenth day of October Two Thousand and Twenty and may be cited as "The Derbyshire County Council (Pelham Avenue - Ilkeston) (Waiting Restrictions) Order 2020".

2 INTERPRETATION

In this Order:-

2.1 "the County Council" means Derbyshire County Council.

2.2 "Carriageway" means a way constituting or comprised in a highway being a way (other than a cycle track) over which the public have a right of way for the passage of Vehicles, as in Section 329(1) of the Highways Act 1980.

2.3 "CEO" means Civil Enforcement Officer and has the same meaning as in Section 76 of the 2004 Act;

2.4 "Delivering and Collecting" in relation to any Goods includes checking the Goods for the purpose of their delivery or collection;

2.5 "Disabled Person's Badge" has the same meaning as in the Disabled Persons (Exemption for Disabled Persons) (England) Regulations 2000;

2.6 "Disabled Person's Vehicle" means a Vehicle displaying a Disabled Persons Badge in the relevant position as set out under Regulation 4 of the Local Authorities Orders (Exemption for Disabled Persons) (England) Regulations 2000.

2.7 "Driver" in relation to a Vehicle waiting in a Parking Place or on a road or length of road, means:-

- a) the person driving the Vehicle or responsible for the Vehicle at the time it was left in that Parking Place or road or length of road;
- b) the registered keeper of the Vehicle shall be deemed to have been the Driver unless evidence to the contrary is shown;

c) where the Vehicle is a pedal cycle, the person (being a user) riding, pushing by hand or otherwise in charge of the Pedal Cycle at the time it was left in the Parking Place;

2.8 "Dual Purpose Vehicle" has the same meaning as defined in Part 1 Regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986;

2.9 Electronic Communications Apparatus, Electronic Communications Network and any Electronic Communications Line shall have the same meaning as in the Communications Act 2003;

2.10 "Footway" means a way comprised in a road which also comprises a carriageway being a way over which the public have right of way on foot only as defined in Section 329 (1) Highways Act 1980. Footways are pedestrian paths alongside a Carriageway, and often referred to as a Pavement;

2.11 "Goods" means goods or burden of any description;

2.12 "Goods Vehicles" means a motor vehicle which is constructed or adapted for use for the carriage of Goods or a trailer so constructed or adapted, as in Section 192 (1) of the Road Traffic Act 1988;

2.13 "Junction" means, for measurement purposes only, the point where the prolongation of two kerb lines intersect with measurements taken along the line of the kerb for the said length of road otherwise stated;

2.14 "Loading and Unloading" means the transference, from or to a Vehicle, to or from premises, of Goods;

2.15 "Loading Bay" means, a bay marked in accordance with the Two Thousand and Sixteen Regulations, which is provided for the waiting of a Vehicle for the purpose of Delivering or Collecting Goods or Loading or Unloading the Vehicle as specified under the provisions of the Order;

2.16 "Motor Vehicle" and "Motorcycle" have the same meaning as in Section 136 of the Act;

2.17 "Owner" in relation to a Vehicle, means the person who is named in the Vehicle registration document as the registered keeper of a goods or passenger Vehicle or who has the use of such Vehicle in the course of his employment and who is entitled to use such a Vehicle as though he were the registered keeper thereof;

2.18 "Public Service Vehicle" has the meaning ascribed to it by Section 1 of the Public Passenger Vehicles Act 1981, that is to say it shall mean a Motor Vehicle (other than a tramcar) which –

- (i) being a Vehicle adapted to carry more than eight passengers, is used for carrying passengers for hire or reward; or
- (ii) being a Vehicle not so adapted, is used for carrying passengers for hire or reward at separate fares in the course of a business of carrying passengers.

2.19 "Pedal Cycle" means a cycle (which has the same meaning as that ascribed to it in Section 192 of the Road Traffic Act 1988).

2.20 "Penalty Charge" and "Discounted Level for a Penalty Charge" means a charge set by the Council under Section 77 and Schedule 9 of the 2004 Act in accordance with the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (SI 2007 No,3487)

2.21 "Penalty Charge Notice (PCN)" means a notice issued or served by CEO in accordance with Regulation 8, 9 or 10 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (SI 2007 No. 3483);

2.22 "Relevant Position" in respect of: -

a) a Disabled Person's Badge or a Permit or a Parking Ticket, means:

(i) in the case of a Vehicle fitted with a front windscreen, that the Disabled Person's Badge or Permit is exhibited thereon with the front facing forward on the nearside of and immediately behind the windscreen; or

(ii) in the case of a Vehicle not fitted with a front windscreen, that the Disabled Person's Badge or Permit is exhibited on the front or nearside of the Vehicle;

2.27 "Specified Position" means, in respect of a Vehicle left in a Parking Place during the Permitted Hours in accordance with the foregoing provisions of this Order, that it shall be caused so to stand:-

a) in accordance with any special provisions as to the manner of standing of a Vehicle in that place which are specified in Schedule 3 attached to this Order,

b) in the case of any other Parking Place, if the Parking Place is not in a one-way street, that the left or near-side of the Vehicle is adjacent to the left-hand edge of the Carriageway;

c) so that every part of a Vehicle is within the limits of a Parking Place;

d) that no part of the Vehicle obstructs any vehicular means of ingress to or egress from any premises adjacent to the side of the road on which the Vehicle is waiting.

2.23 The Interpretation Act 1978 shall apply to its interpretation as it applies to Acts of Parliament

2.24 Any reference to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment

2.25 Any reference in this Order to the masculine gender shall include the female gender and vice versa and any reference to the singular includes the plural and vice versa.

2.26 "The 2004 Act" means the Traffic Management Act 2004.

2.27 "The 2016 Regulations" means the Traffic Signs Regulations and General Directions 2016

2.28 "Vehicle" for the purposes of this Order means a "Motor Vehicle" or "Pedal Cycle"

2.29 "Verge" means any part of a highway which is not a Carriageway, Footway or Pavement but includes a way over which the public have a right of way on Pedal Cycles with or without a right of way on foot.

2.30 "Owner" in relation to a Vehicle means a Resident who is named in the Vehicle registration document as the registered keeper of a goods or passenger Vehicle or who has the use of such a Vehicle in the course of his employment and who is entitled to use such a Vehicle as though he were the registered keeper thereof;

3 WAITING RESTRICTIONS

3.1 Save as provided in articles 4, 5 and 6 of this Order no person shall except upon the direction or with the permission of a Police Constable in uniform, or a CEO, cause or permit any vehicle to wait at any time on any day on the length of road specified in the Schedule 1 to this Order.

4 GENERAL EXEMPTIONS

4.1 Nothing in Article 3 shall render it unlawful to cause or permit any vehicle to wait in the lengths of road referred to therein for so long as may be necessary to enable:-

- (a) a person to board or alight from the Vehicle;
- (b) the Vehicle, if it cannot conveniently be used for such purpose in any other road, to be used in connection with any of the following operations namely:-
 - (i) building, industrial or demolition operations;
 - (ii) the removal of any obstruction to traffic;
 - (iii) the maintenance, improvement or reconstruction of the said lengths of road; or
 - (iv) the laying, erection, alteration or repair in, or on land adjacent to the said lengths of road of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any Electronic Communications Line;
- (c) the Vehicle, if it cannot conveniently be used for such purpose in any other road, to be used in the service of a local authority or a water authority in pursuance of statutory powers or duties;
- (d) the Vehicle of a universal service provider (as defined in Section 4 of the Postal Services Act 2000) to be used for the purpose of delivering or collecting mail;
- (e) the Vehicle to take in petrol, oil, water or air from any garage situated on or adjacent to the said lengths of road;

- (f) any Vehicle, other than a privately owned Vehicle, which is being used as an official Vehicle for the purposes of a wedding (bridal Vehicle) or a funeral (hearse and cortege) at a Church or place of worship
- (g) the Vehicle to be used for fire brigade, ambulance or police purposes; or
- (h) Goods to be Loaded or Unloaded from the Vehicle.

5 DISABLED PERSONS' EXEMPTIONS

5.1 Nothing in Article 3.1 shall render it unlawful to cause or permit a Disabled Person's Vehicle which displays in the relevant position a Disabled Person's Badge, and a parking disc (on which the driver, or other person in charge of the Vehicle, has marked the time at which the period of waiting began) to wait in the lengths of road referred to in that Article for a period not exceeding three hours (not being a period separated by an interval of less than one hour from a previous period of waiting by the same vehicle in the same length or on the same side of road on the same day).

5.2 Nothing in Article 3.1 shall render it unlawful to cause or permit a Disabled Person's Vehicle which displays in the relevant position a Disabled Person's Badge to wait in the lengths of road referred to in that Article.

5.3 A vehicle displays a Disabled Person's Badge in the relevant position if:-

- (i) in the case of a Vehicle fitted with a front windscreen, the badge is exhibited thereon on the near side of and immediately behind the windscreen and with its front facing forward so as to be legible from outside the Vehicle; or
- (ii) in the case of a Vehicle not fitted with a front windscreen, the badge is exhibited in a conspicuous position on the Vehicle.

5.4 A Vehicle displays a Disabled Person's Badge in the relevant position if:-

- (i) in the case of a Vehicle fitted with a dashboard or fascia panel, the badge is exhibited thereon so that Part I of the badge is legible from outside the Vehicle; or
- (ii) in the case of a Vehicle not fitted with a dashboard or fascia panel, the badge is exhibited in a conspicuous position on the Vehicle so that Part I of the badge is legible from outside the vehicle.

5.5 A Vehicle displays a parking disc in the relevant position if:-

- (i) in the case of a Vehicle fitted with a dashboard or fascia panel, the disc is exhibited thereon so that the quarter-hour period during which the period of waiting began is legible from outside the Vehicle; or
- (ii) in the case of a Vehicle not so fitted, the disc is exhibited in a conspicuous position on the Vehicle so that the quarter-hour period during which the period of waiting began is legible from outside the Vehicle".

6 PUBLIC SERVICE VEHICLES

6.1 Nothing in Article 3 shall apply to a Public Service Vehicle.

7 EFFECT OF ORDER

7.1 The prohibitions and restrictions imposed by this Order shall be in addition to and not in derogation from any restrictions or requirements imposed by any regulations made or having effect as if made under the Act of 1984 or by or under any other enactment.

8 REVOCATIONS OF PREVIOUS ORDERS

8.1 Any permanent Traffic Regulation Orders made prior to this Order, insofar as they relate to the lengths of road listed below, insofar as they relate to the prohibitions and restrictions listed below, are hereby revoked.

8.2 The DCC Consolidation Order 2016, insofar as it relates to the lengths of roads listed in Schedule 1 to this Order is hereby revoked.

SCHEDULE 1

NO WAITING AT ANY TIME

Pelham Avenue, Ilkeston

Both sides

From its junction with Bath Street in a westerly direction for its entirety

THE COMMON SEAL of the Derbyshire)
County Council was hereunto affixed)
The Eighth day of October Two thousand)
and Twenty in the presence of:-)

pp 
Assistant Director of Legal Services

Number in Seal
Book 2020/975