

## BOROUGH OF EASTLEIGH

### THE BOROUGH OF EASTLEIGH (AVIARY ESTATE, EASTLEIGH) EXPERIMENTAL ORDER 2008

The Council of the Borough of Eastleigh (hereinafter referred to as "the Council") pursuant to arrangements made under Section 19 of the Local Government Act 2000 with the Hampshire County Council in exercise of the powers of the said County Council under Sections 9 and 10 of the Road Traffic Regulation Act 1984 ("the Act"), and of all other enabling powers, and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act hereby makes the following Order:-

#### PART I- GENERAL

##### Commencement and Citation

1. This Order shall come into operation on 1 December 2008 and may be cited as the "Borough of Eastleigh (Aviary Estate, Eastleigh) Experimental Order 2008".

##### Interpretation

2. (1) In this Order, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:-

"civil enforcement officer" shall have the same meaning as in section 76 of the Traffic Management Act 2004;

"disabled parking disc" means a device which:-

- (a) is coloured blue;
- (b) has been issued by a local authority and has not ceased to be valid;  
and
- (c) is capable of showing the quarter hour period during which a period of waiting has begun.

"disabled person's badge" means a badge which was-

- (a) issued, or has effect as if issued, to a disabled person or an institution under the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 or under regulations having effect in Scotland or Wales under section 21 of the Chronically Sick and Disabled Persons Act 1970; and
- (b) has not ceased to be in force;

as defined in The Local Authorities' Traffic Orders (Exemption for Disabled Persons) (England) Regulations 2000;

"disabled person's vehicle" means a vehicle lawfully displaying a disabled persons badge, as defined under Section 142 of the Act;

"dispensation certificate" means a certificate issued by or on behalf of the Council under the provisions of this Order permitting a specified vehicle to wait in specified circumstances on a length or lengths of road or in a parking place where the waiting of that vehicle would otherwise be restricted or prohibited;

"driver", in relation to a vehicle waiting in a parking place or street or part of a street specified in this Order, means the person in charge of the vehicle at the same time it was left in the parking place or street or part of a street aforesaid;

"goods" includes all chattels personal, other than things in action and money, including postal packets of any description and "delivery and collection", in relation to any goods, includes checking the goods for the purpose of their delivery or collection;

"goods vehicle" means a vehicle not exceeding 3.5 tonnes max gross weight and which is constructed or adapted for use for the carriage of goods or burden of any description, and is not a drawing trailer;

"motorcycle" means a mechanically propelled vehicle (not being an invalid carriage) with fewer than 4 wheels, of which the weight unladen does not exceed 410 kilograms as defined in Section 136 of the Act;

"owner", in relation to a vehicle, means the person named in the vehicle registration document or the person by whom such vehicle is kept and used;

"parking space" means a space in a parking place which is provided for the leaving of a vehicle;

"passenger vehicle" means a vehicle (other than a motorcycle 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;

"permitted hours" means the periods specified for each parking place during which parking by vehicles of a specific class is permitted as specified in the Schedules;

"postal packet" means a letter, parcel, packet or other article transmissible by post as defined in Section 125 of the Postal Services Act 2000;

"telecommunication apparatus" has the same meaning as in Section 4 of the Telecommunications Act 1984;

“vehicle” means a motor vehicle and “motor vehicle” has the same meaning as in section 136 of the Act;

“wait” and “waiting” refer to the stopping of a vehicle and it remaining at rest for some time whether or not the driver is still in the vehicle;

(2) For the purpose of this Order a vehicle displays a disabled person's badge in the relevant position if it is displayed in accordance with The Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000.

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

(4) The conditions, provisions, prohibitions and restrictions imposed by this Order shall be in addition to and not in derogation of any other such matter imposed by any Order or regulation made, or having effect as if made, under the Act of 1984, or by or under any other enactment.

(5) The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(6) Any reference in this Order to a numbered Article shall, unless the context requires otherwise, be construed as a reference to the Article bearing that number in this Order and any reference to the Plans is a reference to the Plans incorporated into this Order.

(7) If a court, the Department for Transport, the Traffic Penalty Tribunal or the Traffic Enforcement Centre declares any part of this Order to be invalid or un-enforceable, such declaration shall not invalidate the remainder of the Order.

## PART II- PROHIBITION AND RESTRICTION OF WAITING

3. Save as provided in Articles 5, 6, 8 and 9 of this Order no person shall except upon the direction or with the permission of a police constable in uniform or a civil enforcement officer cause or permit any vehicle to wait at any time in, on the sides of, or in any of the lengths of roads specified in the First Schedule to this Order.
4. Save as provided in Articles 5, 7, 8 and 9 of this Order no person shall except upon the direction or with the permission of a police constable in uniform or a civil enforcement officer cause or permit any vehicle to wait between the hours of 9.00am and 4.00pm on any day other than a Saturday or Sunday on the sides of roads or in the lengths of roads specified in the Second Schedule to this Order-
  - (a) for a longer period than 1 hour; or

- (b) if a period of less than 2 hours has elapsed since the termination during the said hours of the last period of waiting (if any) of the vehicle on those sides of roads or in those lengths of roads.
5. Nothing in Articles 3 and 4 of this Order shall render it unlawful to cause or permit any vehicle to wait on the sides of roads or in the lengths of roads referred to therein for so long as is necessary to enable-
- (a) a person to board or alight from a vehicle;
  - (b) goods to be loaded on or unloaded from the vehicle;
  - (c) 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 operation;
    - ii. the removal of any obstruction by traffic;
    - iii. the maintenance, improvement or reconstruction of the said sides of road or length of road;
    - iv. the laying, erection, alteration or repair in, or in land adjacent to the said sides of roads or lengths of roads of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telecommunication apparatus;
  - (d) the vehicle, if it cannot be 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;
  - (e) the vehicle to be used for the purpose of delivering or collecting postal packets as defined in Section 125 of the Postal Services Act 2000; or
  - (f) the vehicle to be used for Fire Brigades, Ambulance or Police purposes.
6. Nothing in Article 3 of this Order shall render it unlawful to cause or permit a disabled persons vehicle which displays in the relevant position a disabled persons badge and a disabled 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) issued by any local authority to wait on the sides of roads 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 of road.
7. Nothing in Article 4 of this Order shall render it unlawful to cause or permit a disabled persons vehicle which displays in the relevant position a disabled persons badge to wait on the sides of roads referred to in that Article.
8. Nothing in Articles 3 and 4 shall render it unlawful to cause or permit any vehicle to park upon a designated parking place.
9. Nothing in Articles 3 and 4 shall prevent any person from causing or permitting a vehicle to wait in any prohibited or restricted road if it is

displaying in the relevant position a valid dispensation certificate issued by or on behalf of the Council and the vehicle is waiting in accordance with the terms and conditions of the said certificate.

10. No person shall cause or permit any vehicle to wait in a limited waiting parking place during the permitted hours unless it is of the specified class.

#### Classes of vehicles for which limited waiting parking places are designated

11. Subject to the provisions of this Order, limited waiting parking places may be used during the permitted hours for the parking of passenger vehicles, goods vehicles, motor cycles and vehicles displaying a disabled persons' badge.

#### Dispensation certificate

12. The Council may issue a dispensation certificate on receipt of application and may impose charges, terms and conditions as appropriate.
13. A dispensation certificate may be cancelled at any time at the sole discretion of the Council and shall thereupon immediately cease to be valid. Notification of such cancellation shall be in writing to the holder of the certificate at any address that the Council believes to be that person's address and the certificate shall forthwith be surrendered to the Council.

#### Contravention

14. If a vehicle is waiting in a prohibited or restricted road or parking place respectively without complying with the requirements of this Order, a contravention shall have occurred and a penalty charge shall be payable.

#### Restriction on removal of notices

15. Where a notice has been attached to a vehicle in accordance with the provisions of this Order no person, not being the driver of the vehicle, a police officer in uniform, a civil enforcement officer or some other person duly authorised by the Council shall remove the notice from the vehicle unless authorised to do so by the owner of the vehicle.

#### Removal of vehicle

16. Where a civil enforcement officer has removed or caused to be removed a vehicle in accordance with the provisions of this Order,
  - (a) he / she shall provide for the safe custody of the vehicle;
  - (b) the Council shall be entitled to recover from the person responsible such charges in respect of the removal, storage and disposal of the vehicle as it might prescribe from time to time;
  - (c) the provisions of the Act of 1984 as amended shall apply to the disposal of such vehicles removed by or on behalf of the Council.

17. Nothing in respect of immobilisation or removal of a vehicle shall apply in respect of a vehicle displaying in a relevant position a valid disabled person's badge.

### PART III - AUTHORISATION AND USE OF PARKING PLACES

18. No person shall cause or permit any vehicle to wait unless all wheels are on the carriageway and, if conditions dictate that the vehicle should wait parallel to the kerb, so that the distance between the edge of the carriageway and the nearest wheel of the vehicle is not more than 50cms.
19. No person shall cause or permit any vehicle to wait so that any part of the vehicle obstructs any dropped kerb or any vehicular means of ingress to or egress from premises adjacent to the side of the road on which the vehicle is waiting.

#### Manner of standing in a parking place

20. Unless indicated otherwise by markings on the carriageway, each vehicle left in a limited waiting parking place in accordance with the foregoing provisions of this Order shall stand so that every part of the vehicle is within the limits of the parking place as marked on the carriageway.

#### Alteration of position of a vehicle in a parking place

21. Where any vehicle is standing in a parking place in contravention of the provisions of the preceding Article, a person duly authorised by the Council or police officer in uniform may alter or cause to be altered the position of the vehicle in order that its position shall comply with those provisions.

#### Movement of a vehicle in a parking place in an emergency

22. A police officer in uniform may move or cause to be moved or remove or cause to be removed, in case of emergency, to any place he / she thinks fit, any vehicle parked in a parking place and shall provide for the safe custody of the vehicle.

#### Suspension of use of a parking place

23. Any person duly authorised by the Council may suspend the use of a parking place or any part thereof whenever they consider such suspension reasonably necessary:
- (a) for the purpose of facilitating the movement of traffic or promoting its safety;
  - (b) for the purpose of any building operation, demolition or excavation adjacent to the parking place, the maintenance, improvement or reconstruction of the highway or the cleansing of gullies in or adjacent to the parking place, the laying, erection, alteration or repair in or adjacent to the parking place or any sewer or of any main, pipe, or apparatus for

- the supply of gas, water or electricity or of any telecommunications system or the placing, maintenance or removal of any traffic sign;
- (c) for the convenience or occupiers of premises adjacent to the parking place on any occasion of the removal of furniture to or from one office or dwelling-house adjacent to the parking place from or to a depositary, another office or dwelling-house;
- (d) on any occasion on which it is likely by reason of some special attraction that any street will be thronged or obstructed;
- (e) for the convenience of occupiers of premises adjacent to the parking place at times of weddings or funerals, or on other special occasions; or
- (f) on any occasion in the interests of traffic or pedestrian movement and safety when a special event is taking place in the vicinity;

24. A police officer in uniform may suspend for not longer than 7 days the use of a parking place or any part thereof whenever he / she considers such suspension reasonably necessary for the purpose of facilitating the movement of traffic or promoting its safety.

25. Any person or police officer suspending the use of a parking place or any part thereof in accordance with the provisions of this Order shall thereupon place or cause to be placed in or adjacent to that parking place or part thereof a traffic sign indicating that parking by vehicles is prohibited.

#### No waiting in a suspended parking place

26. No person shall cause or permit a vehicle to wait in a parking place or any part thereof during which such period as the Council or a police officer has suspended that parking place or part thereof and exhibits notice of such suspension on or near that parking place.

27. Nothing in the preceding Article shall render it a contravention to cause or permit a vehicle to be left in a parking place which has been suspended, which displays in the relevant position a valid dispensation certificate issued by the Council, and the vehicle is left in accordance with the terms and conditions of the said certificate.

#### Restrictions on the use of vehicles in a parking place

28. During the permitted hours no person shall use any parking place or any vehicle whilst it is in a parking place in connection with the sale or offering or exposing for sale any goods to any person in or near the parking place or in connection with the selling or offering for sale of their skill in handicraft or their services in any other capacity:  
 Provided that nothing in this Article shall prevent the sale of goods from a vehicle if the vehicle is a passenger vehicle, a goods vehicle, a motorcycle or an invalid carriage and the goods are immediately delivered at or taken into premises adjacent to the vehicle from which the sale is effected and the vehicle does not park for a period exceeding 20 minutes or such longer period as a civil enforcement officer may approve.

### Exemptions to restriction on waiting by a vehicle in a parking place

29. Notwithstanding for foregoing provisions of this Order any vehicle may be left during the permitted hours in any part of a parking place if the use of that part has not been suspended and if:
- (a) the vehicle is left for so long as may be necessary for the purpose of enabling any person to board or alight from a vehicle or load thereon or unload therefrom their personal luggage;
  - (b) the vehicle is left owing to the driver being prevented from proceeding by circumstances beyond their control or to such waiting being necessary in order to avoid an accident;
  - (c) the vehicle is being used by a doctor or nurse visiting premises adjacent to the parking place;
  - (d) the vehicle is being used for fire and rescue, ambulance or police purposes or, not being a passenger vehicle, is being used in the service of a local authority in pursuance of statutory powers or duties provided that in all the circumstances it is reasonably necessary in the exercise of such powers or in the performance of such duties for the vehicle to park in the place in which it is parked;
  - (e) the vehicle is waiting for so long as may be necessary to enable it to be used in connection with the removal of any obstruction to traffic;
  - (f) the vehicle of the Royal Mail or other universal postal service provider (as defined in Section 4(3) and (4) of the Postal Services Act 2000) is parked for the purpose of delivering and/or collecting mail; or
  - (g) in any other case the vehicle is left for the purpose of delivering or collecting goods or loading or unloading the vehicle at premises adjacent to the parking place in which the vehicle is left and the vehicle does not wait for a period exceeding 20 minutes or for such longer period as a civil enforcement officer may approve.

### Placing of traffic signs etc.

30. The Council shall:

- (a) place and maintain traffic signs indicating the limits of each parking place,
- (b) place and maintain traffic signs of a design approved by the Secretary of State for the Department for Transport indicating that such parking places may be used during the permitted hours for the leaving only of the vehicles of the specified classes, and
- (c) carry out such other work as it reasonably required for the purposes of the satisfactory operation of a parking place.



**FIRST SCHEDULE**  
**No waiting at any time**

<b>Road</b>	<b>Side</b>	<b>Description</b>
Chestnut Avenue adjacent to Nos. 210 to 218	Both	From the closed end westwards for a distance of 40 metres including the closed end.
Kestrel Road	North	From the extended western kerb line of Magpie Lane westwards for a distance of 17 metres.
Kestrel Road	South	From the extended western kerb line of Magpie Lane westwards for a distance of 20 metres.
Kingfisher Road	North	From the eastern kerb line of Magpie Lane westwards for a distance of 22 metres.
Kingfisher Road	South	From the western kerb line of Magpie Lane westwards for a distance of 15 metres.
Heron Square (western arm)	Both	From its junction with Nightingale Avenue northwards for a distance of 12 metres.
Heron Square (eastern arm)	Both	From its junction with Nightingale Avenue northwards for a distance of 15 metres.
Magpie Lane	West	From the southern kerb line of Kingfisher Road southwards for a distance of 15 metres.
Magpie Lane	West	From a point 16 metres north of the extended northern kerb line of Kestrel Road to a point 28 metres south of the extended southern kerb line of Kestrel Road.
Magpie Lane	Both	From its junction with Nightingale Avenue northwards for a distance of 15 metres.
Magpie Lane	Both	From its junction with Nightingale Avenue southwards for a distance of 15 metres.
Magpie Lane	West	From a point 15 metres north of the northern kerb line of Chestnut Avenue northwards for a distance of 60 metres.
Magpie Lane	East	From the extended northern kerb line of Kingfisher Road southwards for a distance of 25 metres.
Magpie Lane	East	From a point 20 metres north of the extended northern kerb line of Kestrel Road to a point 25 metres south of the extended southern kerb line of Kestrel Road.

Magpie Lane	East	From a point 15 metres north of the northern kerb line of Chestnut Avenue northwards for a distance of 15 metres.
Nightingale Avenue	North	From a point 22 metres west of the western kerb line of Passfield Avenue westwards to a point 40 metres west of the western kerb line of Magpie Lane.
Nightingale Avenue	North	From a point 17 metres east of the eastern kerb line of the eastern arm of Heron Square to a point 15 metres west of the western kerb line of the eastern arm of Heron Square.
Nightingale Avenue	North	From a point 34 metres east of the eastern kerb line of the western arm of Heron Square westwards to a point 23 metres west of the western kerb line of the western arm of Heron Square.
Nightingale Avenue	South	From a point 22 metres west of the western kerb line of Passfield Avenue westwards to the western kerb line of the eastern arm of the service road at Nos.6 to 16 Nightingale Avenue.
Nightingale Avenue	South	From the eastern kerb line of the service road at Nos. 6 to 16 Nightingale Avenue westwards to a point 23 metres west of the western kerb line of the western arm of Heron Square.
Service road west of Nos. 6 to 16 Nightingale Av	Both	From its junction with Nightingale Avenue and the parking area southwards to its junction with the service road which serves the rear of Nos. 2 to 22 Nightingale Avenue.
Service road east of Nos. 6 to 16 Nightingale Av	Both	From its junction with Nightingale Avenue and the parking area southwards to its junction with the service road which serves the rear of Nos. 2 to 22 Nightingale Avenue.
Service road rear of Nos. 6 to 16 Nightingale Av	South	For its entire length.
Service road rear of Nos. 6 to 16 Nightingale Av	North	From its junction with the western service road for a distance of 2.5 metres.
Service road rear of Nos. 6 to 16 Nightingale Av	North	From its junction with the eastern service road for a distance of 2.5 metres.
Wren Road	Both	From its junction with Nightingale Avenue southwards for a distance of 15 metres.

**SECOND SCHEDULE**

**Limited waiting parking places**

**Monday to Friday, waiting limited to 1 hour, no return within 2 hours,  
9.00am to 4.00pm**

<b>Road</b>	<b>Side</b>	<b>Description</b>
Nightingale Avenue	South	From the western kerb line of the eastern arm of the service road serving Nos. 6 to 16 Nightingale Avenue eastwards to the eastern kerb line of the western arm of the service road. Parking end on to the kerb with a parking bay length of 6 metres

Dated this                      day of                      2008

THE COMMON SEAL of EASTLEIGH    )  
BOROUGH COUNCIL was hereunto    )  
affixed in the presence of:-        )

Head of Legal & Democratic Services

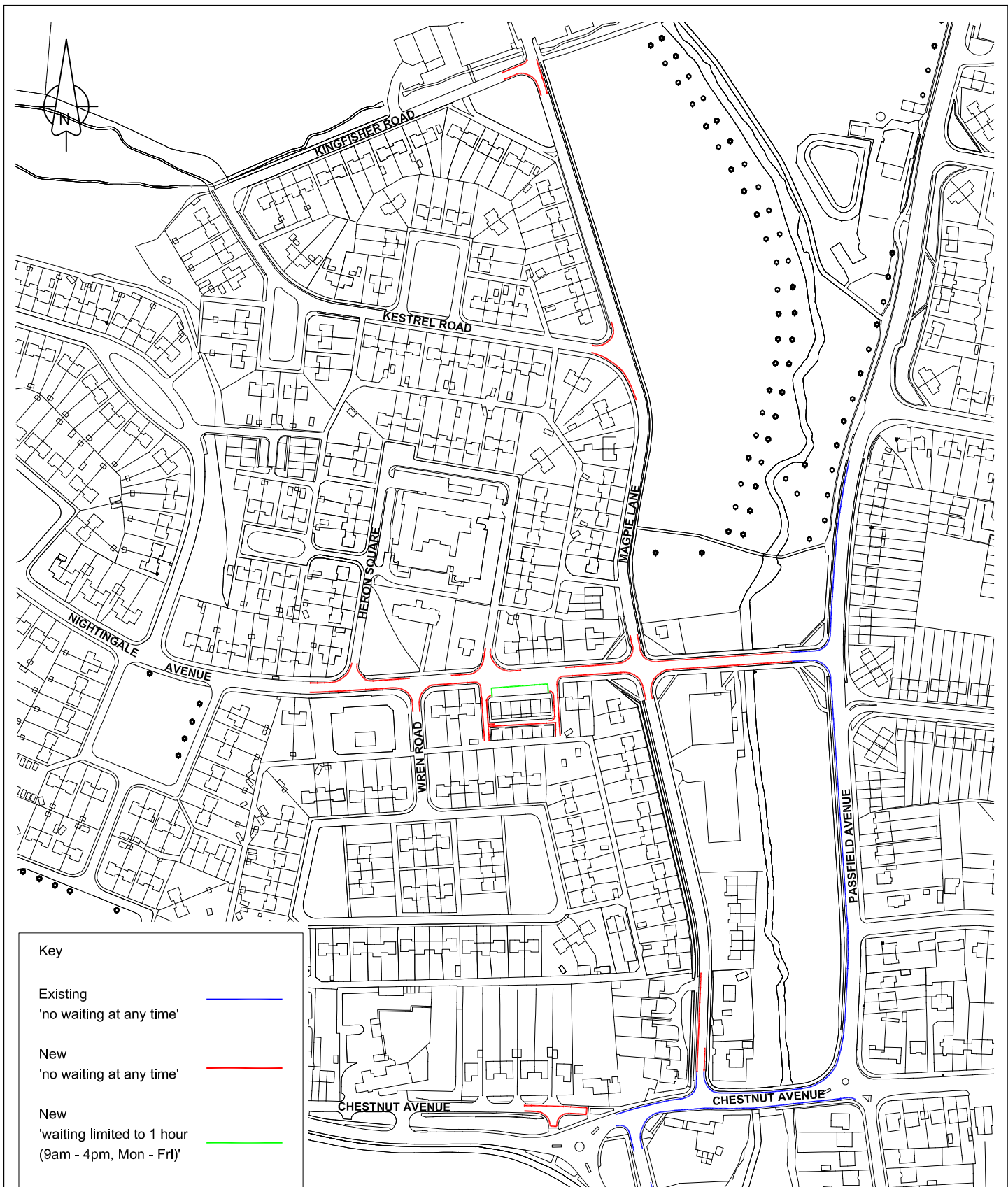
DATED 2008

BOROUGH OF EASTLEIGH

THE BOROUGH OF EASTLEIGH  
(AVIARY ESTATE, EASTLEIGH)  
EXPERIMENTAL ORDER 2008

A R Ward  
Head of Legal & Democratic Services  
Eastleigh Borough Council  
Civic Offices  
Leigh Road  
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SO50 9YN

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**Transportation  
&  
Engineering**

**Scheme**

AVIARY ESTATE

**Title**

PHASE 1 WAITING RESTRICTIONS

**Scale** @A4

N.T.S.

**Date**

OCT 08

**Drawn by**

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**Drawing No**

E/TM/01/P/50/002

**Project No**

E/TM/01/P/50

**Checked by**

SRW