

BOROUGH OF EASTLEIGH

THE BOROUGH OF EASTLEIGH (AVIARY ESTATE, EASTLEIGH) EXPERIMENTAL ORDER 2009

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 18 May 2009 and may be cited as the "Borough of Eastleigh (Aviary Estate, Eastleigh) Experimental Order 2009".

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.

(8) The Head of Legal and Democratic Services at the Council may modify or suspend the operation of this order or any provision contained in it in accordance with section 10 of the Act.

PART II- PROHIBITION AND RESTRICTION OF WAITING

3. Save as provided in Articles 4, 5, 6 and 7 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:-
 - (a) at any time in, on the sides of, or in any of the lengths of roads specified in the First Schedule to this Order;
 - (b) between the hours of 8.00am and 6.00pm 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.

4. Nothing in Article 3 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.
5. 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.
6. Nothing in Article 3 shall render it unlawful to cause or permit any vehicle to park upon a designated parking place.
7. Nothing in Article 3 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.

Dispensation certificate

8. The Council may issue a dispensation certificate on receipt of application and may impose charges, terms and conditions as appropriate.

9. 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

10. 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

11. 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

12. 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.
13. 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- REVOCATION OF EXISTING TRAFFIC REGULATION PROVISIONS

25. The Orders specified in Column One of the Third Schedule to this Order are hereby revoked insofar as specified in Column Two of the Third Schedule.

FIRST SCHEDULE
No waiting at any time

	Road	Side	Description
1.	Chestnut Avenue (service road serving property nos. 210 – 246)	South	From the eastern closed end of the road westwards for a distance of 72 metres, including the turning head.
2.	Chestnut Avenue (service road serving property nos. 210 – 246)	North	From the eastern closed end of the road westwards for a distance of 127 metres.
3.	Chestnut Avenue (service road serving property nos. 210 – 246)	Both	From its junction with Chestnut Avenue northwards for a distance of 12 metres.
4.	Chestnut Avenue (service road serving property nos. 210 – 246)	South	From a point opposite the eastern boundary of No. 246 Chestnut Avenue eastwards to a point opposite the eastern boundary of No. 234 Chestnut Avenue.
5.	Magpie Lane	West	From its junction with Nightingale Avenue northwards for a distance of 15 metres.
6.	Magpie Lane	East	From its junction with Nightingale Avenue northwards for the entire length of the road.
7.	Magpie Lane	West	From a point 26 metres north of the junction with Kestel Road southwards to a point 32 metres south of the same junction.
8.	Nightingale Avenue	North	From a point 28 metres east of its junction with the eastern arm of Heron Square westwards to a point 15 metres west of the same junction.
9.	Service road east of Nos. 6 to 16 Nightingale Avenue	East	From its junction with Nightingale Avenue southwards to its junction with the service road which serves the rear of Nos. 2 to 22 Nightingale Avenue.
10.	Service road east of Nos. 6 to 16 Nightingale Avenue	West	From its junction with the service road serving the rear of Nos. 6 to 16 Nightingale Avenue northwards for a

distance of 4 metres.

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| 11. | Service road east of Nos. 6 to 16 Nightingale Avenue | West | From a point 10 metres north its junction with the service road serving the rear of Nos. 6 to 16 Nightingale Avenue northwards for a distance of 4 metres. |
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SECOND SCHEDULE

No Waiting Monday to Friday, 8.00am to 6.00pm

Road	Side	Description
1. Magpie Lane	East	From a point 30 metres north of its junction with Chestnut Avenue northwards to a point 15 metres south of its junction with Nightingale Avenue.

THIRD SCHEDULE

Column One

Column Two

The Borough of Eastleigh (Aviary Estate, Eastleigh) Experimental Order 2008

First Schedule Item 1 relating to Chestnut Avenue; Items 10,13 and 14 relating to Magpie Lane; Item 17 relating to Nightingale Avenue; Item 22 relating to the service road.

Dated this day of 2009

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

Head of Legal & Democratic Services

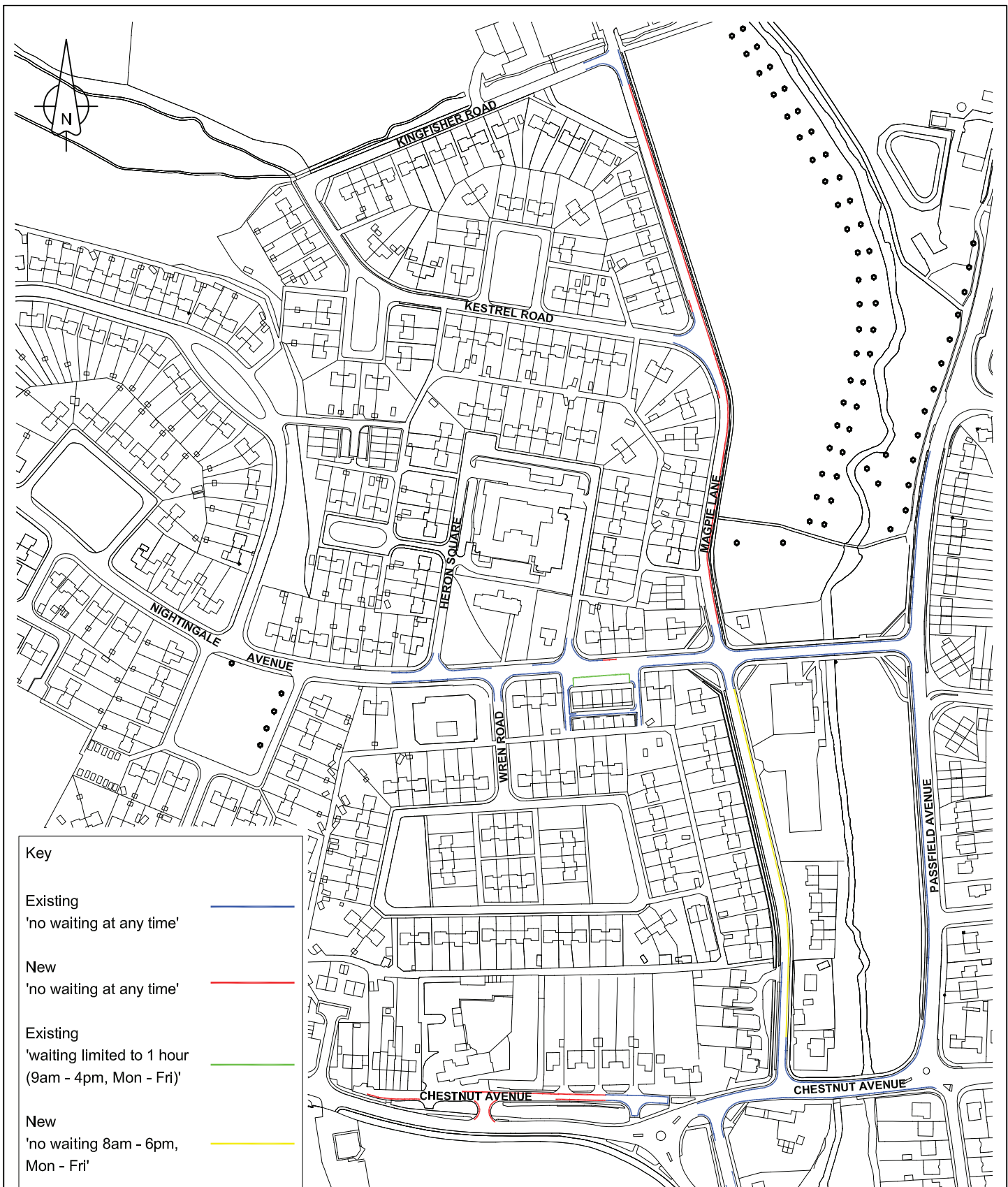
DATED _____ 2009

BOROUGH OF EASTLEIGH

THE BOROUGH OF EASTLEIGH
(AVIARY ESTATE, EASTLEIGH)
EXPERIMENTAL ORDER 2009

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Scheme
AVIARY ESTATE

Title
**PHASE 2 WAITING RESTRICTIONS
CONSULTATION PLAN**

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