

ROAD TRAFFIC REGULATION ACT 1984

ROAD TRAFFIC ACT 1991

TRAFFIC MANAGEMENT ACT 2004

HASTINGS BOROUGH COUNCIL (HORNTYE CAR PARK)

PARKING PLACE ORDER 2015

Reference: 2/HIGH/PP/00022

HASTINGS BOROUGH COUNCIL ("the Council") in the exercise of its powers, namely:

the Road Traffic Regulation Act 1984 ("the Principal Act"), sections 32, 33, 35 and 39, as amended;

the Road Traffic Act 1991 ("the 1991 Act") as amended

Part 6 of the Traffic Management Act 2004

the Road Traffic (Permitted Parking Area and Special Parking Area) (County of East Sussex) (Borough of Hastings) Order 1999 (S.I. 1999 No. 1112);

and all other powers enabling the Council in that behalf;

after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 of the Principal Act; and

in accordance with the Local Authorities' Traffic Orders (Procedure (England and Wales) Regulations 1996 (S.I. 1996 No 2489);

MAKES THIS PARKING PLACE ORDER in respect of The Horntye Car Park as follows, namely:

PART 1

GENERAL

1. (1) This Order may be cited as the Hastings Borough Council (Horntye Car Park) Parking Place Order 2015.
- (2) This Order shall come into operation on the 4th day of APRIL 2015.
- (3) The Hastings Borough Council (Horntye Car Park) Parking Place Consolidation Order 2008 is hereby revoked.
2. (1) In this Order except where the context otherwise requires the following expressions have the meaning hereby respectively assigned to them:-

"Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated or modified whether substantial or not and whether

before or after the date of this Order and all statutory instruments or orders made pursuant to it"

"Civil Enforcement Officer" has the same meaning as defined in Section 76 of the Traffic Management Act 2004"

"Council" means the Hastings Borough Council.

"Credit Card" means a card or similar thing issued by any person, use of which enables the holder to defer payment by him of the charge for parking a vehicle

"Debit Card" means a card or similar thing issued by any person, use of which by the holder causes the charge for parking a vehicle to be paid by the electronic transfer of funds from any current account of his at a bank or other institution providing banking services

"Disabled Person's Badge" is as defined in the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000 (S.I. 2000 No. 683) regulation 3.

"Driver" in relation to a vehicle waiting in a Parking Place means the person driving the vehicle at the time it was left in the Parking Place.

"Higher Level Contravention" has the same meaning as defined in the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007

"Higher Level Penalty Charge" has the same meaning as defined in the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007

"Hiring Agreement" means an agreement under the terms of which the vehicle concerned is let to the hirer for a fixed period of less than six months (whether or not that period is capable of extension by agreement between parties or otherwise) and otherwise in conformity with the Road Traffic Regulation Act 1984, section 109 so far as applicable and does not include a hire-purchase agreement within the meaning of the Consumer Credit Act 1974 or such legislation as it applies or extends to Scotland.

"Invalid Carriage" has the same meaning as in section 136 of the 1984 Act

"Motorcar" has the same meaning as in section 136 of the 1984 Act.

"Motorcycle" has the same meaning as in section 136 of the 1984 Act.

"Owner", in relation to a vehicle, has the same meaning as defined in Section 92 of the Traffic Management Act 2004;

"Parking Charge" means the charge paid by the Driver of a vehicle, by which he is authorised under this Order, to leave the vehicle in the Parking Place

"Parking Place" means the parking place specified by name in column 1 of Schedule 1 to this Order;

"Parking Ticket" means a ticket issued by a Pay and Display Machine pursuant to this Order;

"Pay and Display" in relation to a Parking Place means a Parking Place where the Driver shall pay a charge in accordance with the provisions of this Order;

"Penalty Charge" means a Penalty Charge imposed under Part 6 of the Traffic Management Act 2004;

"Penalty Charge Notice" means a notice issued or served by a Civil Enforcement Officer pursuant to the provisions of Part 6 of the Traffic Management Act 2004

"Registered Keeper" in relation to a vehicle waiting in a Parking Place means the person named in the Register kept by or on behalf of the Secretary of State under the Vehicle Excise and Registration Act 1994 and the Road Vehicles (Registration and Licensing) Regulations 2002 (SI 2002 No. 2742) as the keeper of the vehicle at the time it was left in the Parking Place.

"Relevant Position" means the Parking Ticket(s) or Season Ticket shall be clearly and continuously displayed on the dashboard or front windscreen of the vehicle, or in the case of a motor cycle in a prominent position on the vehicle, so that all the details shown on the front of the said ticket are clearly visible.

"Season Ticket" means a ticket issued for annual, quarterly, monthly and weekly periods allowing unlimited parking during those said periods at charges detailed in the Schedule to this Order which may be used at the Parking Place

"Ticket Machine" means an apparatus of a type and design approved by the appropriate Secretary of State, designed to indicate the time by a clock and to issue Parking Tickets to show that a payment has been made of an amount or for a period specified thereon and to specify the date and either the time of such payment or the time at which the vehicle must leave the Parking Place

- (2) The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.
- (3) A vehicle left in a Parking Place designated for a disabled person which displays a Disabled Person's Badge shall be exempt for the first three hours of any day from payment of any charge imposed by the following provisions of this Order.

- (4) The Parking Place is shown for the purpose of identification only and edged with red on the plan annexed to this Order. The plan is dated May 2014 and is drawn to scale as stated.

PART II

USE OF PARKING PLACES

3. The Parking Place specified in column 1 of Schedule 1 to this Order may be used subject to the following provisions of this Order as a Parking Place for such vehicles or classes of vehicles as are specified in column 3 of that Schedule.
4. Nothing in this Order shall restrict the power of the Council to close a Parking Place or any part thereof:-
 - (a) On the occasion of any conference, sporting event, carnival, public entertainment or other special occasion.
 - (b) For the purpose of any building operation, demolition or excavation in or adjacent to the Parking Place or the maintenance, improvement or reconstruction of the Parking Place or the laying, alteration, erection, removal or repair on or adjacent to the Parking Place of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telegraphic line.
5. The Driver of a vehicle shall not permit it to wait in a Parking Place unless:-
 - (a) It is of the class specified in Schedule 1, and
 - (b) In a parking space marked on the surface thereof, if any
6. The Driver of a vehicle shall not permit it to wait in a Parking Place without the Council's consent for more than 24 hours.
7. The Driver of a vehicle shall not without the Council's consent use a Parking Place when the Council shall have closed that Parking Place and exhibited notice of such closing on or near the Parking Place and the same shall apply to any part of a Parking Place which may be closed.
8. The Driver of a motor vehicle using a Parking Place shall stop the engine as soon as the vehicle is in position in the Parking Place, and shall not start the engine except when about to change the position of the vehicle in or to depart from the Parking Place.

9. The Driver of a vehicle at a Parking Place shall not sound any horn or other similar instrument except when about to change the position of the vehicle in or to depart from the Parking Place.
10. No person shall while a vehicle is at a Parking Place carry out or permit the carrying out of any work of construction or repair to that vehicle except such as may be necessary to enable it to be moved from the Parking Place.
11. No person shall wash clean or service any vehicle or any part thereof whilst it is at a Parking Place.
12. No person shall, without the Council's consent, use a vehicle, while it is in a Parking Place, in connection with the sale of any article to persons in or near the Parking Place or in connection with the selling or offering for hire of his skill or services.
13. No person shall, in any vehicle, while the vehicle is in a Parking Place
 - (a) Wash any part of his person.
 - (b) Sleep between the hours of 10.00 p.m. and 8.00 a.m. the following morning.
 - (c) Light any fire, stove or cooker.
 - (d) Expose any washing to dry.
14. Where in a Parking Place signs are erected or surface markings are laid for the purpose of:-
 - (a) indicating the entrance to or exit from the Parking Place, or
 - (b) indicating that a vehicle using the Parking Place shall proceed in a specified direction within the Parking Place,No person shall drive or cause or permit to be driven any vehicle –
 - (i) so that it enters the Parking Place otherwise than by an entrance, or leaves the Parking Place otherwise than by the exit, so indicated, or
 - (iii) in a direction other than that specified, as the case may be.
15. No person shall, except with the permission of a person authorised by the Council in that behalf, drive or permit to be driven any vehicle in a Parking Place for any purpose other than the purpose of leaving that vehicle in the Parking Place in accordance with the provisions of this Order or for the purpose of departing from the Parking Place.
16. No person shall use a Parking Place as a means of passage by vehicle from one road to another road.

17. No person shall [be] in a Parking Place without the written consent of the Council (which may be given on such terms and conditions as they think fit).
- (i) Sell or offer for sale anything whatsoever
 - (ii) Make any collection of money or articles for charitable or other purposes
 - (iii) Advertise or publish by any means any event display entertainment sale business shop organisation collection or other thing.
18. The Driver of a vehicle shall not permit that vehicle to wait in a Parking Place unless the vehicle is licensed in accordance with the provisions of the Vehicle Excise and Registration Act 1994, section 1, 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 the Road Traffic Act 1988, Part VI.
19. No person shall in a Parking Place wantonly shout or otherwise make any loud noise to the disturbance or annoyance of users of the Parking Place or residents of premises in the neighbourhood.
20. No person shall in a 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 or whereby a breach of the peace is likely to be occasioned.
21. No person shall without the consent of any person duly authorised by the Council leave or cause to be left unattended in any Parking Place other than in a designated trolley park any shopping or supermarket trolley.
22. In a Parking Place no person shall erect or cause to be erected any tent booth stand building or other structure without the written consent of the Council.

PART III

CHARGES FOR PARKING

23. The Parking Charge for parking vehicles in a Parking Place shall be as set out in Schedule 2

Season Tickets

- 24.1 The Council may issue a Season Ticket to an applicant for a vehicle. Season Tickets may be issued on criteria determined from time to time by the Council

24.2 If a paper Season Ticket is provided this must be clearly and continuously displayed in the Relevant Position during the entire period the vehicle is waiting in the Parking Place.

24.3 When payment is made by mobile telephone, the Parking Place will be identified by the Location Identification Number (LIN) displayed on the information signs and the parking period paid for will only be valid for that specific Parking Place and vehicle.

The LIN, Parking Charge paid and parking period will be available for the Civil Enforcement Officer's view on their hand-held device (which is programmed to interface with the telephone payment system) when the vehicle registration mark is entered.

24.4 A Season Ticket shall only be valid in respect of the vehicle for which it was issued and in such Parking Place as specified and shall be subject to any other conditions upon which it was issued.

Pre-paid Parking

25.1 The Parking Charge shall be paid:

- (a) where facilities allow, by the insertion of coins into a Ticket Machine; or
- (b) where facilities allow, by a Credit Card or Debit Card at a Ticket Machine; or
- (c) where facilities allow, by a mobile telephone payment

25.2 The Driver, of a vehicle to be parked in a Parking Place, shall on entering the car park pay the Parking Charge of the appropriate sum for the period for which he intends to park his vehicle, except where the Council decide on the occasion of any conference, carnival, public entertainment or other special occasion that a Parking Place may be closed and that no charge is payable.

25.3 When payment of a Parking Charge is made by using a Ticket Machine, a Parking Ticket(s) will be issued by the machine identifying the amount paid and the expiry time of the parking period. The Parking Ticket(s) is non-transferable between Parking Places or vehicles and must be displayed clearly and continuously in the Relevant Position

25.4 When payment is made by mobile telephone, the Parking Place will be identified by the Location Identification Number (LIN) displayed on the information signs and the parking period paid for will only be valid for that specific Parking Place and vehicle.

The LIN, Parking Charge paid and parking period will be available for the Civil Enforcement Officer's view on their hand-held device (which is

programmed to interface with the telephone payment system) when the vehicle registration mark is entered.

- 25.5 If, when a vehicle is parked in a Parking Place, payment of the Parking Charge is not possible using the Drivers preferred method, it should be paid using any alternative method available. Where there is a problem with a Ticket Machine the driver should check if there is another Ticket Machine in that Parking Place that could be used.
- 25.6 Only if all of the facilities for paying the Parking Charge at a Parking Place are not working or have been covered by an authorised agent, will the Driver of that vehicle be exempt from paying the Parking Charge' for the remainder of that days charging period.
26. If a vehicle is left in a Parking Place in contravention of or without complying with any Article of this Order a Penalty Charge shall be payable and/or the vehicle may be removed from that location or Parking Place for any one of the following parking contraventions;
- (i) parked in an electric vehicles' charging place during restricted hours without charging;
 - (ii) parked without payment of the Parking Charge;
 - (iii) parked for longer than permitted;
 - (iv) parked in a restricted area in a car park;
 - (v) parked after the expiry of paid for time;
 - (vi) parked without clearly displaying a valid pay & display ticket or car park permit;
 - (vii) parked without clearly displaying a valid permit where required;
 - (viii) not parked correctly within the marking of a bay or space;
 - (ix) parked in a designated disabled person's parking space, without displaying a valid disabled person's badge in the prescribed manner;
 - (x) parked in a car park or area not designated for that class of vehicle;
 - (xi) parked causing an obstruction;
 - (xii) parked in a parking place for a purpose other than that designated
 - (xiii) using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited
 - (iv) vehicle parked exceeds maximum weight or height or length permitted

Penalty Charge Notice

27.1 Service

In the case of a vehicle in respect of which a Penalty Charge may have been incurred, a Penalty Charge Notice may be served by a Civil Enforcement Officer

- 27.2 In the case of a vehicle in respect of which the Penalty Charge may have been incurred, it shall be the duty of the Civil Enforcement Officer to serve the Penalty Charge Notice:
- (a) by fixing it to the vehicle in a conspicuous position; or
 - (b) giving it to the person appearing to him to be in charge of the vehicle
- 27.3 A Penalty Charge Notice which has been served shall include the contents as laid down by the Schedule to Regulation 8 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 together with those laid down by regulation 3 to The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007
- 27.4 The amount of the Penalty Charge for a Higher Level Contravention shall be £70.00 and for all other contraventions the Penalty Charge shall be £50.00.
- 27.5 A Penalty Charge Notice fixed to a vehicle in accordance with any of the foregoing provisions of this Order, shall not be removed or interfered with except by or under the authority of either the Owner or person in charge of the vehicle or a Civil Enforcement Officer of the Council
- 27.6 Manner of payment of Penalty Charge
- The Penalty Charge shall be paid to the Council at and by approved methods of payment in accordance with the instructions on the Penalty Charge Notice.
- Payment must reach the Council not later than the 28th day following the day on which the Penalty Charge Notice was issued
- The Penalty Charge will be discounted by 50% if payment is received by any of the methods aforesaid within 14 days of the date of service of the Penalty Charge
- 27.7 The period for which a vehicle may be left in a Parking Place during the charging hours after the Penalty Charge has been incurred shall not exceed two hours
- 27.8 "Higher Level Contraventions" are defined by the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 as those falling within one or more of the descriptions of contravention listed in column (2) of Table 1 below, being descriptions based on Version 6.7 of the Standard PCN Codes used by local authorities engaged in parking enforcement and have the code number shown in column (1) of that table.

Table 1

(1) Code	(2) Description
70	Parked in a loading place or bay during restricted hours
71	Parked in an electric vehicles' charging place during restricted hours without charging
74	Using a vehicle in a Parking Place in connection with the sale or offering or exposing for sale of goods when prohibited
81	Parked in a restricted area in a car park
85	Parked without clearly displaying a valid permit where required
87	Parked in a disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner
89	Vehicle parked exceeds maximum weight or height or length permitted
91	Parked in a car park or area not designated for that class of vehicle
92	Parked causing an obstruction

28. Neither the payment of a parking fee nor the acceptance thereof shall guarantee that a parking space will be available at any particular time or at all.

29. Parking fees are in no circumstances refundable.

30. (1) If at any time while a vehicle is left in a Parking Place and either;
- a) has no Parking Ticket(s) exhibited on that vehicle in accordance with the provisions of Article 25.3; and / or
 - b) the Civil Enforcement Officer's hand held device does not show that payment has been made in accordance with the provisions of Article 25.4 of this Order

it shall be presumed unless the contrary is proved that the charge has been not been paid.

- (2) If at any time while a vehicle is left in the Parking Place there is displayed on the vehicle one ticket issued by the Ticket Machine indicating that a charge has been paid for a particular period and the time indicated on the Ticket Machine clock shows that that period has expired it shall be presumed unless the contrary is proved that the charge specified for that period has been duly paid and that the period has expired.

- (3) If at any time while a vehicle is left in the Parking Place there are displayed on the vehicle two or more consecutive tickets issued by the Ticket Machine and indicating that a charge has been paid for a particular period and the time indicated on the Ticket Machine clock shows that that period has expired it shall be presumed unless the contrary is proved that the charge specified for that period has been duly paid and that the period has expired.
- (4) If at any time while a vehicle is left in the Parking Place there is displayed a ticket indicating the day and time, and the time indicated by the Ticket Machine clock is more than twenty-four hours later than the time indicated on the ticket those indications shall unless the contrary is proved:-
- (a) in any proceedings for a Penalty Charge under the 2004 Act, for non-compliance or contravention of this Order be evidence that the vehicle was left in the Parking Place for longer than twenty-four hours;
 - (b) in any proceedings for a Penalty Charge under the 2004 Act, of failing duly to pay the Penalty Charge, be evidence that the charge was incurred.

PART IV

REMOVAL OF VEHICLES FROM A PARKING PLACE

32. When a vehicle is left in a Parking Place in contravention of any of the foregoing provisions of this Order a person authorised in that behalf by the Council may move the vehicle or arrange for it to be removed from that Parking Place.
33. Any person moving or removing a vehicle by virtue of the last preceding Article of this Order may do so by towing or driving the vehicle or in such other manner as he may think necessary and may take such measures in relation to the vehicle as he may think necessary to enable him to remove it as aforesaid.
34. When a person authorised by the Council removes or makes arrangements for the removal of a vehicle from a Parking Place by virtue of Article 35 of this Order he shall make such arrangements as may be reasonably necessary for the safe custody of the vehicle.

35. Any person duly authorised by the Council, or a police constable in uniform may move or cause to be moved in the case of emergency to any place he thinks fit, vehicles left in the Parking Place.

Disposal of Abandoned Vehicles on the Parking Place

36. The Council may as respects a vehicle which has been or could at any time be removed by the Council from the Parking Place in pursuance of Article 33 of this Order if it appears to them to have been abandoned, sell or otherwise dispose of the vehicle in accordance with the Road Traffic Regulation Act 1984, section 100.

SCHEDULE 1

THE PARKING PLACE

1	2	3
PARKING PLACE	PLAN REFERENCE	THE VEHICLES OR CLASSES OF VEHICLES AUTHORISED TO USE THE PARKING PLACE
HORNTYE CAR PARK	2458	Motorcars, invalid carriages, motorcycles.

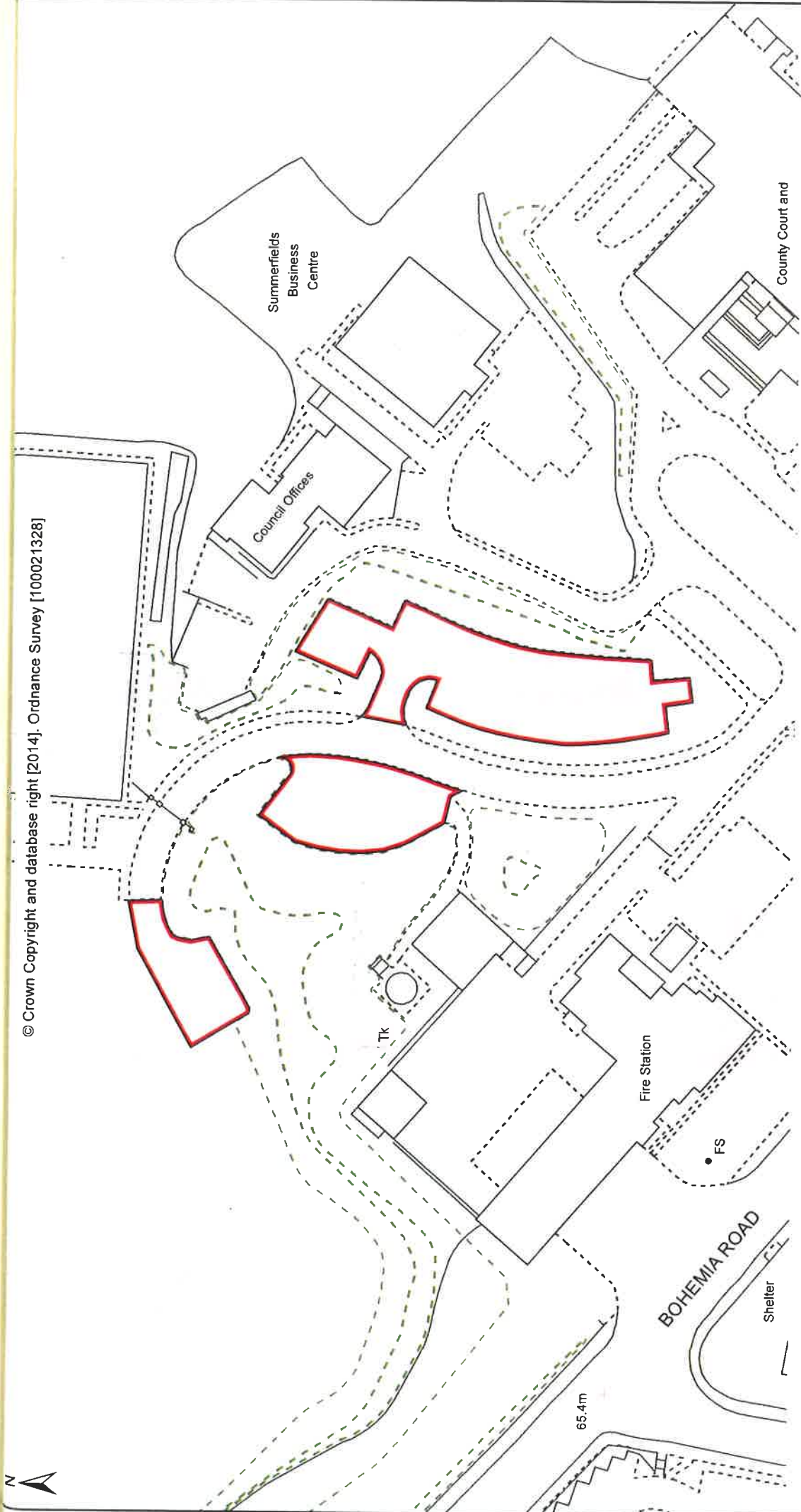
SCHEDULE 2

THE CHARGES

Mondays to Fridays (between the hours of 0800 and 1600)

Up to 2 hours	£1.00
Up to 4 hours	£1.50
Up to 8 hours	£2.00
Weekly	£6.00
Monthly	£20.00
Quarterly	£50.00
Annually	£150.00

Saturdays and Sundays **FREE**



Horntye Car Park

Date: May 2014

Scale: 1:1,000

Drawing No. 2458

Terms and Conditions of Use of Ordnance Survey Material i) You are granted a non-exclusive, royalty free, revocable licence solely to view the Licensed Data for non-commercial purposes for the period during which Hastings Borough Council makes it available; ii) You are not permitted to copy, sub-license, distribute, sell or otherwise make available any Data to third parties in any form; and iii) Third party rights to enforce the terms of this licence shall be reserved to Ordnance Survey.

THE COMMON SEAL of HASTINGS)
BOROUGH COUNCIL was affixed to)
this Order on the 2th day of March .)
)



In the presence of

G. A. Smith

AUTHORISED SIGNATORY