

KIRKLEES COUNCIL

(TRAFFIC REGULATION) (NO. 3) ORDER 2017

The Council of the Borough of Kirklees ("the Council") in exercise of their powers under Sections 1, 2, 4, 32, 35, 45, 46, 47, 49 and 53 of the Road Traffic Regulation Act 1984 ("the Act"), Part 6 of the Traffic Management Act 2004, the Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Kirklees) Order 2006 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 which relates to various roads in the Scissett and Denby Dale area of the Kirklees district:-

PART I

1. Interpretation

1.1. Except where the context otherwise requires any reference in this Order to a numbered Article is a reference to the Article bearing that number in this Order and any reference to a numbered Schedule is a reference to the Schedule bearing that number in this Order

1.2. In this Order except where the context otherwise requires the following expressions have the meanings hereby respectively assigned to them:-

"authorised position" means in relation to Article 3, wholly within the limits of the parking place as marked on the carriageway in accordance with the road markings as indicated by Diagrams 1028.4, 1032 and 1033 in Schedule 6 to the 2002 Regulations and in such position so as not to obstruct the movement of other motor vehicles.

"Bank Holiday" has the same meaning as in the Banking and Financial Dealings Act 1971.

"business parking permit" means a permit issued under the provisions of Article 3.19

"carriageway" has the same meaning as in Section 329 of the Highways Act 1980.

"Category N1 vehicle" means a vehicle designed and constructed for the carriage of goods and having a maximum mass not exceeding 3.5. tonnes.

"civil enforcement officer" has the meaning given by S.76 of the 2004 Act.

"disabled person's badge" has the same meaning as in the 2000 Regulations and the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000.

"disabled person's motor vehicle" means a motor vehicle lawfully displaying a disabled person's badge and which immediately before or after any period of waiting allowed by virtue of this Order has been or is to be driven by a disabled person or has been or is to be used for carrying disabled persons as passengers.

"driver" in relation to a motor vehicle waiting in a parking place means the person driving the motor vehicle at the time it was left in the parking place.

"dual purpose vehicle" has the same meaning as in Paragraph 2 of Schedule 6 to the Act.

"DVLA" means the Driver and Vehicle Licensing Agency.

"enforcement authority" means the Council.

"goods" has the same meaning as in the Road Traffic Act 1988.

"hackney carriage" has the same meaning as in the Town Police Clauses Act 1847.

"invalid carriage" means the same as in Section 136 of the Act.

"maximum mass" means the technically permissible maximum laden mass.

"motor cycle" has the same meaning as in Section 136 of the Act.

"motor vehicle" has the same meaning as in Section 136 of the Act.

"open parking permit" means a permit issued under the provisions of Article 3.17

"owner" in relation to a vehicle means the person by whom the vehicle is kept which in the case of a motor vehicle registered under the Vehicle Excise and Registration Act, 1994 is presumed (unless the contrary is proved) to be the person in whose name the vehicle is registered.

"parking disc" has the same meaning given by regulation 8(5) of the 2000 Regulations

"parking place" means in relation to Article 3 the parts of the road specified in Column 1 of the Fourth Schedule authorised by this Order to be used as a parking place

"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 no more than twelve passengers exclusive of the driver.

"penalty charge" has the meaning given by S.92 of the 2004 Act.

"permit" means a permit issued under the provisions of Articles 3.15 to 3.24 inclusive.

"permit holder" means a person to whom a permit has been issued under the provisions of Articles 3.15 to 3.24 inclusive.

"permitted motor vehicle" means in relation to Article 3 a passenger vehicle, class N1 vehicle, dual purpose vehicle, invalid carriage and motor cycle.

"postal packets" has the same meaning as in the Postal Services Act 2000.

"relevant position" in relation to a disabled person's badge has the same meaning as in Regulation 12 of the Disabled Person's (Badges for Motor Vehicles) (England) Regulations 2000 and the 2000 Regulations

"relevant position" in relation to a parking disc means:-

- (i) the disc is exhibited on the dashboard or fascia of the motor vehicle; or
- (ii) where the motor vehicle is not fitted with a dashboard or fascia the disc is exhibited in a conspicuous position on the motor vehicle

so that the period during which waiting began is clearly legible from the outside of the motor vehicle.

"resident" means in relation to a parking place any person whose usual residence is at premises the postal address of which is as defined opposite to that parking place in Column 2 of the Fourth Schedule Appendix 1

"specific parking permit" means a permit issued under the provisions of Article 3.15.

"subordinate legislation" has the same meaning as in Section 21 of the Interpretation Act 1978.

"telecommunications apparatus" has the same meaning as in the Telecommunications Act 1984.

"traffic sign" means a sign of any size, colour and type prescribed or authorised under, or having effect as though prescribed or authorised under, Section 64 of the Act.

"universal service provider" has the same meaning as in the Postal Services Act 2000.

"the 2000 Regulations" means the Local Authorities Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000.

"the 2002 Regulations" means the Traffic Signs Regulations and General Directions 2002.

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

PART II

2. Prohibitions and Restriction on Waiting

- 2.1. Save as provided in Articles 2.2, 2.3 and 2.4 no person shall, except upon the direction or with the permission of a police constable in uniform or of a civil enforcement officer, cause or permit any motor vehicle to wait at any time in the lengths of road specified in the First Schedule.
- 2.2. Nothing in Article 2.1 shall prohibit any person from causing or permitting any motor vehicle to wait in a length of road specified in the First Schedule for so long as may be necessary:-
 - 2.2.1. to enable a person to board or alight from the motor vehicle;
 - 2.2.2. to enable the motor vehicle, if it cannot be conveniently used for such purpose in any other road, to be used in connection with any wedding or funeral, building operation or demolition, the removal of any obstruction to traffic, the maintenance, improvement or reconstruction of the length of road so specified or the laying, erection, alteration or repair in or near the said length of road of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telecommunications apparatus;
 - 2.2.3. if the motor vehicle is a Mobile Speed Camera Unit or an Automatic Number Plate Recognition Vehicle
 - 2.2.4. to enable the motor vehicle, if it is in the service of the Post Office or other universal service provider to be used for the purpose of delivering or collecting postal packets;
 - 2.2.5. to enable the motor vehicle to be used in the length of road so specified for police, ambulance, fire brigade, local authority or water authority purposes when used in pursuance of statutory powers or duties;
 - 2.2.6. if the motor vehicle is waiting owing to the driver being prevented from proceeding by circumstances beyond the control of the driver, or to such waiting as is necessary to prevent an accident;
 - 2.2.7. for the purpose of loading or unloading the motor vehicle whilst it is in actual use in connection with the removal or delivery of furniture to or from any premises fronting, adjoining or abutting the said length of road, provided that notice is given twenty four hours in advance to the Police and their consent obtained;

2.2.8 for a hackney carriage to wait at a hackney carriage stand during the hours of operation of the hackney carriage stand.

2.3. Nothing in Article 2.1 shall prohibit any person from causing or permitting any motor vehicle to wait in the length of road specified in the First Schedule for so long as may be necessary to deliver to or collect from or load or unload goods at any premises fronting onto the said length of road provided that no motor vehicle so engaged shall wait for longer than 30 minutes outside the same premises without the permission of a police constable in uniform or a civil enforcement officer and provided always that a police constable in uniform or a civil enforcement officer may at any time require the driver of a motor vehicle to move it if it is necessary for the purposes of preventing obstruction.

2.4. Nothing in Article 2.1, shall render it unlawful to cause or permit any motor vehicle to wait:-

2.4.1 for a period not exceeding 3 hours (not being a period separated by an interval of less than 1 hour from the previous period of waiting by the same motor vehicle in the same road or part of road on the same day) in any of the lengths of road specified in the First Schedule;

2.4.2 in any of the lengths of road specified in the First Schedule;

if the motor vehicle is a disabled person's motor vehicle which displays in the relevant positions:-

- (a) In all cases a disabled person's badge, and
- (b) In the cases referred to in Article 2.4.1 a parking disc issued by any local authority in accordance with the provisions of the 2000 Regulations, or a badge having effect under those Regulations as if it were a disabled person's badge, and the driver or other person in charge of the motor vehicle marks on the parking disc the time at which the period of waiting began.

PART II

3. Parking Places – Permit Holders

3.1. The part of road specified in Column 1 of the Second Schedule is authorised to be used as a parking place for the parking of permitted motor vehicles in the authorised position and on such days and during such hours as are specified in relation to the said part of road in Column 3 of the Second Schedule. A permit holder may only park in any of the parking places provided that they are of a category authorised to use the parking place which is specified directly opposite thereto in Column 2 of the Second Schedule.

- 3.2. The driver of a motor vehicle shall not permit it to wait in the parking place unless it is a permitted motor vehicle.
- 3.3. Every motor vehicle using the parking place shall wait thereon in the authorised position.
- 3.4. Save as provided in Articles 3.10 and 3.11 the driver of a motor vehicle other than a permitted motor vehicle shall not use the parking place unless authorised to do so by a police constable in uniform or a civil enforcement officer, always provided that no motor vehicle shall use the parking place so as unreasonably to prevent access to premises adjoining the road by other persons, or so as to be a nuisance and provided always that a police constable in uniform or a civil enforcement officer may at any time require the driver of the motor vehicle to move it if it is reasonably necessary for the purpose of preventing obstruction or in the case of an emergency move or cause to be moved to any place he thinks fit, any motor vehicle left in a parking place.
- 3.5. The driver of a motor vehicle shall stop the engine as soon as the motor vehicle is in position in the parking place, and shall not start the engine except when about to change position of the motor vehicle in, or to depart from, the parking place.
- 3.6. No person shall use a motor vehicle, whilst it is in the 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 or any other person's skill or services.
- 3.7. A person authorised by the enforcement authority may suspend the use of the parking place or any part thereof whenever he considers such suspension reasonably necessary:-
 - 3.7.1. for the purpose of facilitating the movement of traffic or promoting its safety;
 - 3.7.2. for the convenience of the occupiers of premises adjacent to the parking place on any occasion of the removal of furniture from a dwelling, house or office to another or the removal of furniture from such premises to a depository or to such premises from a depository;
 - 3.7.3. for the convenience of the occupiers of premises adjacent to the parking place at times of weddings or funerals or on other special occasions;
 - 3.7.4. for the purpose of any building operation, demolition or excavation adjacent to the parking place or the maintenance or reconstruction of the parking place or the laying, erection, alteration, or repair in 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 telecommunications apparatus;

- 3.7.5. and he has made an appropriate Order and/or given notice as may be required by legislation.
- 3.8. A person authorised by the enforcement authority suspending the use of a parking place or any part thereof in accordance with the provisions of Article 3.7 shall thereupon place or cause to be placed in or adjacent to that parking place or part thereof the use of which is suspended a traffic sign or notice indicating that waiting by motor vehicles is prohibited.
- 3.9. Save as provided in Articles 3.10 and 3.11 no person shall cause or permit any motor vehicle to be left in the parking place or part thereof, as the case may be, during such period as there is in or adjacent to that parking place or part thereof a traffic sign or notice in pursuance of Article 3.8.
- 3.10. Nothing in Articles 3.1, 3.2, 3.3, 3.4 and 3.9 shall prohibit any person from causing or permitting any motor vehicle to wait in the parking place for so long as it may be necessary:-
- 3.10.1. to enable a person to board or alight from the motor vehicle;
 - 3.10.2. to enable the motor vehicle, if it cannot be conveniently used for such purpose in any other road, to be used in connection with any building operation or demolition, the removal of any obstruction to traffic, the maintenance, improvement or reconstruction of the parking place or any part thereof of the laying, erection, alteration, or repair in or near the parking place of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of and telecommunications apparatus;
 - 3.10.3. to enable the motor vehicle , if it is in the service of the Post Office or other universal service provider to be used for the purpose of delivering or collecting postal packets;
 - 3.10.4. to enable the motor vehicle to be used for police, ambulance, fire brigade, local authority or water authority purposes when used in pursuance of statutory powers or duties;
 - 3.10.5. if the motor vehicle is waiting owing to the driver being prevented from proceeding by circumstance beyond the control of the driver, or to prevent an accident;
 - 3.10.6. to enable the motor vehicle to be used in connection with the removal of furniture from a dwelling house or office to another or the removal of furniture from such premises to a depository or to such premises from a depository.
- 3.11. Nothing in Articles 3.1, 3.2, 3.3, 3.4 and 3.9 shall apply if the motor vehicle is being used by a legally qualified general medical practitioner, district nurse, midwife or similar people when visiting persons whose postal address is as defined opposite to that parking place in Column 2 of the Fourth Schedule, so

long as the motor vehicle concerned is clearly marked Doctor, Midwife etc. and the visit is expected to be of less than 15 minutes duration.

- 3.12. Subject to the proviso hereto, when a motor vehicle is left in the parking place in contravention of any of the provisions contained in Articles 3.1, 3.2, 3.3, 3.4 and 3.9 a person authorised in that behalf by the enforcement authority may remove the motor vehicle or arrange for it to be removed from the parking place provided that when a motor vehicle is waiting in the parking place in contravention of the provisions of Article 3.3, a person authorised in that behalf by the enforcement authority may alter or cause to be altered the position of the motor vehicle in order that its position shall comply with that provision.
- 3.13. Any person removing a motor vehicle or altering its position by virtue of Article 3.12 may do so by towing or driving the motor vehicle or such other manner as he may think necessary to enable him to remove it or alter its position as the case may be.
- 3.14. When a person authorised by the enforcement authority removes or makes arrangements for the removal of a motor vehicle from the parking place by virtue of Article 3.12, he shall make such arrangement as may be reasonably necessary for the safe custody of the motor vehicle and its contents.

Application for and issue of permits

- 3.15. Any resident who is the owner of a permitted motor vehicle may apply to the enforcement authority for the issue of a specific parking permit for the leaving of that motor vehicle in a parking place and any such application shall be made on a form issued by and obtainable from the enforcement authority and shall include the particulars and information required by such form.
- 3.16. On receipt of an application for a specific permit duly made under the foregoing provisions of Article 3.15, the enforcement authority, upon being satisfied that the applicant is a resident and is the owner of a permitted motor vehicle, may, subject to the proviso hereto and upon payment of the administration charge being such sum as may be determined by the enforcement authority, issue to the applicant one permit for the leaving in the parking place of the motor vehicle to which such permit relates by the owner of such motor vehicle or by any person using such motor vehicle with the consent of the owner other than a person to whom such motor vehicle has been let for hire or reward provided that subject to the provisions of Article 3.24 and 3.25, the enforcement authority shall not issue a permit to any resident which would be valid any period during which any other permit issued to that resident is or would be valid.
- 3.17. Any resident may apply to the enforcement authority for the issue of an open or two open parking permit(s) to enable a bona fide visitor to his premises to leave a permitted motor vehicle in a parking place and any such application shall be made on a form issued by and obtainable from the enforcement authority and shall include the particulars and information required by such

form. Subject to Article 3.20 a maximum of two open parking permits to be issued to the residents of premises having a separate postal address.

- 3.17A. A second open parking permit will be issued by the enforcement authority only upon receipt of the administration charge being such sum as may be determined by the enforcement authority”.
- 3.18. Any occupant of business premises may, after payment of such charge as may be determined by the enforcement authority, apply to the enforcement authority for the issue or renewal of a business parking permit (which shall be valid for a period of twelve months from the date of issue or renewal or such lesser period as the enforcement authority may determine) for the leaving of a permitted motor vehicle in a parking place.
- 3.18A Where a vehicle is to be used in connection with works being undertaken at premises in relation to which a specific parking permit has been or could be issued under Article 3.16, use should, wherever possible, be made of any open parking permit issued in relation to those premises. Where that is not possible, the driver or owner of the vehicle must apply to the enforcement authority for the grant of a business parking permit for the leaving of that motor vehicle in a parking place.”
- 3.19. The enforcement authority may at any time require a permit holder or applicant for a permit to produce to an officer of the enforcement authority such evidence in respect of an application made to them for a permit as they may reasonably require to verify any particulars or information given to them.
- 3.20A. Where the council elects to make a charge for the issue of a permit such charge shall be in accordance with the scale of charges which appears in the First Schedule of Traffic Regulation Order (No 13) Order 2014 or in accordance with such revised scale as may be introduced by means of a further order or by a notice of variation under Section 46A of the Road Traffic Regulation Act 1984”
- 3.20. The enforcement authority may at their discretion issue a permit with or without charge to any person who in the opinion of the enforcement authority requires to park in any parking place any permitted motor vehicle.
- 3.21. The issue of a permit under the foregoing provisions of Article 3.16, 3.17, 3.17A 3.18 and 3.18A shall not be construed as if any parking space in the parking place was reserved solely for the use of a permit holder.

Surrender, withdrawal and validity of permits

- 3.22. A permit holder may surrender a permit to the enforcement authority at any time and shall surrender a permit to the enforcement authority on the occurrence of any one of the events set out in Article 3.25.
- 3.23. The enforcement authority may, by notice in writing served on the permit holder by sending the same by the recorded delivery service to the permit

holder at the address shown by that person on the application for the permit or at any address believed to be that person's place of abode, withdraw a permit entirely at its own discretion and the permit holder shall surrender the permit to the enforcement authority with 48 hours of the receipt of the aforementioned notice.

3.24. A permit shall cease to be valid on the occurrence of any one of the events set out in Article 3.25.

3.25. The events referred to in Article 3.22 are:-

3.25.1. the permit holder ceasing to be a resident;

3.25.2. the permit holder ceasing to be the owner of the motor vehicle in respect of which the permit was issued;

3.25.3. the withdrawal of such permit by the enforcement authority under the provisions of Article 3.23;

3.25.4. the motor vehicle in respect of which the permit was issued being adapted or used in such a manner that it is no longer a permitted motor vehicle.

"3.25.5 the permit was issued on the basis that it would continue in force provided a renewal fee was paid but such fee has not been paid on demand."

Application for and issue of duplicate permits

3.26. If a permit is mutilated or accidentally defaced or the figures or particulars thereon have become illegible or the colour of the permit has become altered by fading or otherwise the permit holder shall surrender it to the enforcement authority and the enforcement authority, upon receipt of the permit, shall issue a duplicate permit so marked.

3.27. If the permit is lost or destroyed, the permit holder may apply to the enforcement authority for the issue to him of a duplicate permit and the enforcement authority, upon being satisfied as to such loss or destruction, shall issue a duplicate permit so marked and upon such issue the permit which it duplicates shall become invalid provided that a replacement for a duplicate permit will only be issued upon payment of a charge (being such sum as the enforcement authority may from time to time determine).

3.28. the provisions of the Order shall apply to a duplicate permit and an application therefor as if it were a permit or as the case may be an application therefor.

Form of permit

3.29. A permit shall be in writing and shall bear the words "Specific Permit", "Open Permit", or "Business Permit" or such other title as maybe determined by the

enforcement authority as the case may be and shall include the following particulars:-

- 3.29.1. the registration mark of the motor vehicle in respect of which the permit has been issued;
- 3.29.2. the name of the road or roads or district in which the parking place is situate and for which the permit is issued;
- 3.29.3. an authentication that the permit has been issued by the enforcement authority;

"3.29A A permit shall be valid until any date specified on the face of the permit but in any case where no date is so specified until such time as one of the following events occurs;

- 3.29A.1 the permit holder ceases to be a resident;
- 3.29A.2 the permit holder ceases to be the owner of the motor vehicle for which the permit has been issued;
- 3.29A.3 the permit holder makes a Statutory Off Road Notification (SORN) to the DVLA;
- 3.29A.4 any required payment for the permit has been cancelled by the payer
- 3.29A.5 any other event at the discretion of the enforcement authority such as mis-use of the permit in which case the enforcement authority shall write to the permit holder informing them of the cancellation of the permit. Display of permits

30. At all times during which a motor vehicle is left in a parking place there shall be displayed on the front or near side of the motor vehicle a valid permit issued in respect of that motor vehicle so that all particulars referred to in Article 3.29 are readily visible from the front or near side or the motor vehicle.

restriction on the removal of permits

31. When a permit has been displayed on a motor vehicle in accordance with the provisions of Article 3.30, no person not being the driver of the motor vehicle shall remove the permit from the motor vehicle unless authorised to do so by the driver of the motor vehicle.

PART III

Contraventions of Provisions of Order

Where a motor vehicle is left in a parking place or in any road or length of road in contravention of any provision of this Order such contravention shall

be dealt with in accordance with the provisions of the 2004 Act and any subordinate legislation made under it.

- 4.2. The amount of the penalty charge for a parking contravention and, where applicable, the charges for the removal, storage and disposal of a vehicle shall be as set from time to time by the enforcement authority in accordance with the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 or any re-enactment or replacement thereof and published by it.

PART IV

5 **Revocations**

- 5.1 The orders referred to in Column 1 of the Third Schedule are hereby revoked to the extent shown in Column 2 of that Schedule.

PART VII

6. **General**

- 6.1. The restrictions imposed by this Order shall be in addition to and not in derogation of any restrictions or requirements imposed by any Regulations made or having effect as if made under the Act or by or under any other enactment.
- 6.2. Any reference in this Order to a Statute or Statutory Instrument shall include reference to any re-enactment or replacement thereof.
- 6.3. For the avoidance of doubt, any reference in this Order to a length of road shall be deemed to be a reference to more than one length of road or more than one parking place where the context requires it.
- 6.4. This Order shall come into operation on the 8th day of September 2017 and may be cited as the "Kirklees Council (Traffic Regulation) (No.3) Order 2017".

GIVEN under the Corporate Common Seal of the Council of the Borough of Kirklees this 8th day of September Two Thousand and Seventeen.

THE CORPORATE COMMON SEAL of)
THE COUNCIL OF THE BOROUGH OF)
KIRKLEES was hereunto affixed)
in the presence of:-)

M.A. [Signature]

Assistant Director – Legal, Governance and Monitoring/Authorised Signatory



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FIRST SCHEDULE

NO WAITING AT ANY TIME

COLUMN 1	COLUMN 2	COLUMN 3
Name of Road	Length affected	Days and hours of operation
1. Busker Lane, Scissett	South side from its junction with the produced north western kerbline of A626 Wakefield Road for a distance of 13 metres in a westerly direction	All days All hours
3. Leak Hall Road, Denby Dale	Both sides from its junction with Wakefield Road for 20 metres north-westwards	All days All hours

SECOND SCHEDULE

PARKING PLACES - PERMIT HOLDERS

COLUMN 1	COLUMN 2	COLUMN 3
Part of Road authorised as a street Parking Place	Persons authorised to use such Parking Place	Days and hours of operation
Water Street Both sides from its junction with Wakefield Road to the south eastern boundary of house no. 6	Nos. 1-11 (odds), 11a, 15 and 2-10 (evens) Water Street	All days All hours

THIRD SCHEDULE

REVOCATIONS

Kirklees Council (Traffic Regulation) (Colne Valley and Denby Dale Areas) (Consolidation)
Order 2012 - Schedule 1, item 45 Relating to Leak Hall Lane, Denby Dale