

**THE BOROUGH OF WARRINGTON (CAPESTHORNE ROAD) (PROHIBITION
OF WAITING) ORDER 2009**

The Council of the Borough of Warrington (hereinafter referred to as “the Council”) in exercise of its powers under Sections 1, 2 and 4 to the Road Traffic Regulation Act 1984 (hereinafter referred to as “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: -

1. In this Order, except where the context otherwise required, the following expressions have the meaning hereby respectively assigned to them:

“A person authorised by the Council” means a person authorised by or on behalf of the Council to supervise the restrictions and prohibitions imposed by this Order;

“disabled person’s badge” means a badge in the form prescribed by regulation 11 of The Disabled Persons (Badges for Motor Vehicles) Regulations (England) 2000 issued by a local authority for display on a motor vehicle driven by a disabled person, or used for the carriage of a disabled person, and includes a replacement badge issued in accordance with regulation 7;

“delivering” and “collecting” in relation to any goods include checking the goods for the purpose of their delivery or collection;

“driver”, in relation to a vehicle means the person driving or has use of the vehicle;

“enactment” means any enactment, whether public, general or local and includes any Order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of any enactment;

“goods” means goods of any kind whether animate or inanimate and includes postal packets of any description;

“junction” means the junction of the respective kerb-lines of the roads referred to and, where appropriate, measurements shall be taken from the point of intersection of the respective kerb-lines as projected;

“kerb-line” in relation to a road or a length of road specified and described in any of the Schedules to this Order shall mean that imaginary line which is the projection of the line formed by the edge of the main carriageway of the aforesaid road or length of road adjacent to its junction with the side in question of any other road;

“motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads;

“owner” in relation to a vehicle means the person by whom such vehicle is kept and used. It is presumed (unless the contrary is proved) that the owner is the person in whose name the vehicle is registered or the person who has the use of such a vehicle in the course of his/her employment and who is entitled to use such a vehicle as though he/she were the registered keeper thereof;

“parking disc” means a device which –

- (a) is 125 millimetres square and 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.

“passenger vehicle” means a motor vehicle (other than a motorcycle or invalid carriage) constructed or adapted solely for the carriage of not more than 12 passengers (exclusive of the driver) and their effects and not drawing a trailer;

“penalty charge” means a charge imposed by legislation in respect of road traffic contraventions that are subject to civil enforcement;

“Penalty Charge Notice” means a Notice issued or served by a person authorised by the Council pursuant to the provisions of Section 66 of the Road Traffic Act 1991;

“relevant position” means

- (a) in respect of a vehicle displaying a valid Disabled Person’s Badge -
 - (i) in the case of a vehicle fitted with a dashboard or fascia panel, the badge is exhibited thereon so that Part 1 (the front of the badge), is legible from outside the vehicle; or
 - (ii) in the case of a vehicle not fitted with a dashboard or fascia panel, the badge is exhibited in a conspicuous position on the vehicle so that Part 1 of the badge is legible from outside the vehicle;
- (b) in respect of a vehicle displaying a parking disc -
 - (i) in the case of a vehicle fitted with a dashboard or fascia panel, the disc is exhibited thereon so that when marked to show the quarter period during which a period of waiting began, that period is clearly legible from outside the vehicle; or
 - (ii) in the case of a vehicle not fitted with a dashboard or fascia panel, the disc is exhibited in a conspicuous position on the vehicle so that when marked to show the quarter period during which a period of waiting began, that period is clearly legible from outside the vehicle;

2. 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.

3. Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, applied, consolidated, re-enacted by or as having effect by virtue of any subsequent enactment.
4. The Interpretation Act 1978 shall apply to the interpretation of this Order as it applies for the interpretation of an Act of Parliament and as if for the purposes of Section 21 of that Act this Order were an Act of Parliament and the Orders revoked by this Order were Acts of Parliament thereby repealed.
5. The making of this Order by the Council is done so under the duty imposed by Section 122(1) of The Road Traffic Regulation Act 1984 to secure the expeditious, convenient and safe movement of vehicular and other traffic and the provision of suitable and adequate parking facilities on and off the Highway, insofar as practicable having regard to the matters in Section 122(2) of the said Act.
6. Save as provided in Article 7 no person, except with the direction or with the permission of a person authorised by the Council, Police Constable in uniform or Police Community Support Officer in uniform shall cause or permit any vehicle to wait at any time on Capesthorne Road (south east side) from a point 8.8 metres south west of its junction with Greenwood Crescent for a distance of 24.7 metres in a north easterly direction.
7. (1) Nothing in Article 6 of this Order shall render it unlawful to cause or permit any vehicle to wait on the roads or sides of roads referred to therein for so long as may be 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 conjunction with any of the following operations:
 - (i) building, industrial or demolition operation;
 - (ii) the removal of any obstruction to traffic;
 - (iii) the maintenance, improvement or reconstruction of the said roads or side roads;
 - (iv) the laying, erection, alteration or repair in, or on land adjacent to the said roads, or sides 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 as defined in paragraph 1(1) of the Telecommunications Act 1984
 - (d) the vehicle if it cannot conveniently be used for such purpose in any other road, to be used in the service of a local authority or of 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 87 of the Post Office Act 1953;

- (f) the vehicle to be used for Fire Brigade, Ambulance or Police purposes
- (2) Nothing in Article 6 of this Order shall render it unlawful to cause or permit a vehicle which displays in the relevant position a disabled person's badge and a parking disc (on which the driver or other person in charge of the vehicle has marked the time at which the period of waiting began) to wait in the roads or sides of the roads referred to in this Order for a period not exceeding 3 hours (not being a period separated by an interval of less than one hour from a previous period of waiting by the same vehicle on the same roads or sides of roads on the same day).
8. If a vehicle is left in any road or length of road in contravention or without complying with the requirements of this Order a contravention shall have occurred and a penalty charge shall be payable and/or the vehicle may be removed from that location.
9. In the case of vehicles in respect of which a penalty charge may have been incurred, it shall be the duty of the person authorised by the Council to issue a notice showing the information required by the appropriate legislation in accordance with the requirements of the legislation or any subsequent applicable legislation and/or the vehicle may be removed from the location.
10. The penalty charge shall be paid to the Council within 28 days of the issue of the Penalty Charge Notice either;
- (a) by cheque, bankers' draft, money order or postal order delivered or sent by post as indicated on the Penalty Charge Notice, or
 - (b) by cheque, postal order, in cash, by credit card or debit card in person at any Borough of Warrington Council office which accepts such payments, or
 - (c) by credit card or debit card over the phone using the number specified on the Penalty Charge Notice

Provided that, if the said twenty eight day falls upon a day on which the said Department or office is closed, the period within which payment of the said charge shall be made to the Council shall be extended until 4.30 on the next full day on which the said Department is open.

11. If the penalty charge is paid before the end of the period of 14 days beginning with the date of the Notice, the amount of the penalty charge will be reduced by the specified proportion.
12. If the owner fails to pay the penalty charge by the end of the 28 day period, a Notice of Owner may be served; and if the charge is not paid within a further 28 days it may be increased by 50% on the issue of a charge certificate in accordance with the provisions of paragraph 6 of schedule 6 of the 1991 Act.

13. Continuing failure to pay the penalty charge may result in a judgement in the County Court against the owner to enable the Council to recover the payments due.
14. The particulars given in the Penalty Charge Notice attached to a vehicle in accordance with Article 9 shall be treated as evidence in any proceedings relating to failure to pay such penalty charge.
15. Where a Penalty Charge Notice has been attached to a vehicle in accordance with the provisions of Article 9 no person, not being the driver of the vehicle, a Police Constable in uniform, a person authorised by the Council or some other person duly authorised by the Council shall remove the Notice from the vehicle unless authorised to do so by the keeper of the vehicle.
16. If a vehicle is left after a penalty charge has been incurred, a person authorised by the Council or a person acting under his/her direction may attach to the vehicle an immobilisation device and a Notice in accordance with the requirements of section 69(1) of the Road Traffic Act 1991 and that vehicle shall only be released from the device on payment of the penalty charge, or as the case may be reduced penalty charge, along with such release fee as may be required by the Council.
17. The restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirements imposed by any regulations made or having effect as if made under the Act or by or under any other enactment.
18. This Order shall come into operation on the 29th day of January 2009 and may be cited as "The Borough of Warrington (Capesthorne Road) (Prohibition of Waiting) Order 2009".

Given under the Common Seal of the Council of the Borough of Warrington this 28th day of January 2009.

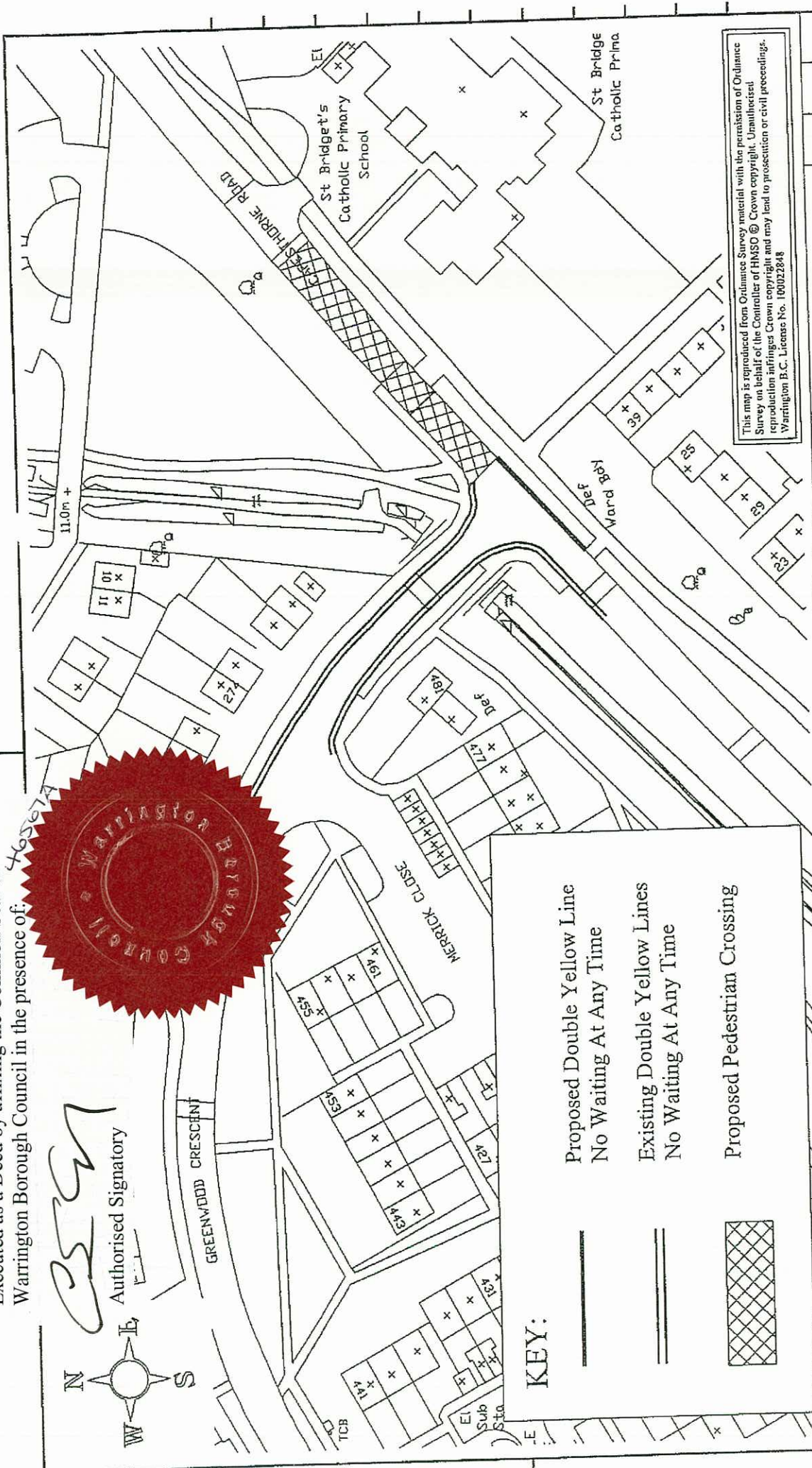
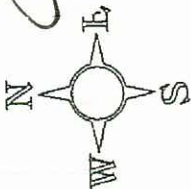
The Common Seal of the **BOROUGH**)
OF WARRINGTON was hereunto)
 affixed in the presence of)


 Authorised Signatory



Executed as a Deed by affixing the Common Seal of Warrington Borough Council in the presence of:

[Signature]
 Authorised Signatory



KEY:

- Proposed Double Yellow Line
No Waiting At Any Time
- Existing Double Yellow Lines
No Waiting At Any Time
- Proposed Pedestrian Crossing

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ENVIRONMENT AND REGENERATION DEPARTMENT Palmyra House Palmyra Square North Warrington WA1 1JN Strategic Director: A STEPHENSON BSc(Hons) DipTP		Project Capesthorpe Rd/ Greenwood Crescent NWAAT	
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