

RESOURCES DIRECTORATE

Legal & Risk

Memorandum



To: Places Directorate – Economy,
Waste and Infrastructure

From: Head of Service

Ref: Rob Owen

Ref: RD/LR/SYF/N34/13-/N-002817
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Date: 31 January 2013

Wigan Borough (Off Street Parking Places) (Gateway Car Park, Wigan) Order 2013

Please find attached a copy of the sealed Order for your records.

Enc.

WIGAN BOROUGH COUNCIL
WIGAN BOROUGH (OFF STREET PARKING PLACES)
(GATEWAY CAR PARK, WIGAN) ORDER 2013

The Wigan Borough Council in exercise of its powers under Sections 32, 35 and Part iv of Schedule 9 of the Road Traffic Regulation Act 1984 and under the Traffic Management Act 2004 and of all other powers enabling it in that behalf hereby makes the following Order:-

PART 1
GENERAL

1. This Order may be cited as the Wigan Borough (Off Street Parking Places) (Gateway Car Park, Wigan) Order 2013 and shall come into operation on 11th February 2013
- 2.(1) In this Order, except where the context otherwise requires, the following expressions have the meanings respectively assigned to them –
 - “1984 Act” means the Road Traffic Regulation Act 1984;
 - “2000 Regulations” means the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000;
 - “2004 Act” means the Traffic Management Act 2004
 - “Council” means the Wigan Borough Council;
 - “civil enforcement officer” means an individual authorised by or on behalf of the Council to supervise on street/off street parking places and the roads/streets within the jurisdiction of Wigan Borough Council in accordance with the Traffic Management Act 2004;

“disabled person” means a disabled person of a description presented by Regulation 4 of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 as amended by The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment) Regulations 2000 and The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment) Regulations 2007 or under regulations having effect in Scotland or Wales;

“disabled person’s badge” means a badge which was -

- i) Issued, or has effect as if issued, to a disabled person or an organisation under The Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 as amended by The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment) Regulations 2000 and The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment) Regulations 2007 or under regulations having effect in Scotland or Wales under Section 21 of the Chronically Sick and Disabled Persons Act 1970; and
- ii) has not ceased to be in force;

“disabled person’s vehicle” means a vehicle which displays in the relevant position a disabled person’s badge issued in accordance with the provisions of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (as amended) or under regulations having effect in Scotland or Wales under Section 21 of the Chronically Sick and Disabled Persons Act 1970;

“driver”, in relation to a vehicle in the parking place, means the person driving the vehicle at the time it entered the parking place;

“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;

“parking place” means the land adjacent to Gateway House off Standishgate, Wigan as shown on the plan annexed to this Order.

“penalty charge” means a penalty charge relating to a parking contravention and payable in accordance with Regulation 4 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007;

“penalty charge notice” means a notice which –

- (a) was served in accordance with Regulation 9 or 10 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 in relation to a parking contravention; and
- (b) complies with the requirements of the Schedule to the said Regulations which apply to it as well as to those of Regulation 3 of The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007;

“relevant charge” means the charges displayed for the time being on a sign located at the entrance to or within the parking place;

“relevant period” means the length of time for which a relevant charge has been paid PROVIDED THAT if a greater value of coins are inserted into the ticket machine than the maximum relevant charge could be for a parking place then the relevant period shall be the maximum stay for the parking place stated in the 3rd column of the Schedule;

“relevant position” means:-

- (i) A vehicle displays a disabled person's badge in the relevant position if:-
 - (a) the badge is exhibited on the dashboard or fascia of the vehicle, or
 - (b) where the vehicle is not fitted with a dashboard or fascia the badge is exhibited in a conspicuous position on the vehicle,

so that the front of the badge is clearly legible from the outside of the vehicle.

- (ii) A vehicle displays a parking disc in the relevant position if:-
- (a) the disc is exhibited on the dashboard or facia of the vehicle, or
 - (b) where the vehicle does not have a dashboard or facia, the disc is exhibited in a conspicuous position on the vehicle;

so that, when marked to show the quarter-hour period during which a period of waiting began, that period is clearly legible from the outside of the vehicle

- (iii) A vehicle displays a parking ticket in the relevant position if:-
- (a) in the case of a vehicle fitted with a dashboard or facia panel, the parking ticket is exhibited thereon so that the time shown on the front of the parking ticket is legible from outside the vehicle.

Or

- (b) in the case of a vehicle not so fitted, the parking ticket is exhibited in a conspicuous position on the vehicle so that the time shown on the front of the parking ticket is legible from outside the vehicle.

- (iv) A vehicle displays a permit in the relevant position if:-
- (a) in the case of a vehicle fitted with a dashboard or facia panel, the permit is exhibited thereon so that the details shown on the front of the permit are legible from outside the vehicle.

Or

- (b) in the case of a vehicle not so fitted, the permit is exhibited in a conspicuous position on the vehicle so that the details shown on the front of the permit are legible from outside the vehicle.

“specified” means specified in the Schedule hereto.

“permit” means a permit issued by the Council.

- (2) Any reference in this Order to a numbered Article is a reference to the Article having that number in this Order.

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

PART 2 USE OF THE PARKING PLACE

- 3.(1) The parking places marked A, B, C & D on the attached plan may be used on any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday between 8.00 am and 6.00 pm on payment of the relevant charge as the charges to be paid in connection with the use of the parking place subject to the provisions of this Order, as a place in which vehicles of the specified classes may wait.
- (2) The parking places marked A, B, C & D on the attached plan may be used on any Sunday between 8.00 a.m. and 6.00pm and such other times as the Council may notify by a sign on the entrance to the parking place free of charge subject to the provisions of this Order, as a place in which vehicles of the specified classes may wait.
- (3) The parking places marked E, F & G on the attached plan may be used on any Monday, Tuesday, Wednesday, Thursday or Friday (other than a Bank or Public Holiday) between 7.00 am and 7.00 pm, subject to the provisions of this Order, as a place in which vehicles of the specified classes may wait if there is displayed in the relevant position on the vehicle a valid permit issued in respect of that vehicle.
4. The driver of a vehicle shall not permit it to wait in the parking place –
- (a) unless it is of a specified class; or
 - (b) in a position other than a specified position, except as directed by a civil enforcement officer; or
 - (c) for longer than the specified maximum period; or
 - (d) unless the relevant charge has been paid or a valid permit displayed as appropriate; or
 - (e) for longer than the period for which a relevant charge has been paid.

- 5.(1) The relevant charge for a vehicle left in the parking places marked A, B, C & D on the attached plan on any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday between 8.00 am and 6.00 pm shall, subject as hereinafter provided, be the amount payable by virtue of Article 3(1) in respect of the use of the parking place.
- (2) The relevant charge shall be paid on the leaving of a vehicle in the parking places marked A, B, C & D on the attached plan on any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday between 8.00 am and 6.00 pm by the insertion of the necessary coins into the apparatus or device provided at the parking place, being an apparatus or device approved in accordance with Section 35(3) of the 1984 Act, and the provisions of Section 47(5) of the said Act shall apply in respect of such apparatus or device or by an alternative method of payment approved by the Council.
- (3) The ticket issued on payment of the relevant charge shall be displayed in the vehicle in a conspicuous position so that it can be easily read from outside the vehicle.
- (4) Where a vehicle in respect of which a relevant charge has been paid is to remain in the parking place for longer than the relevant period for which the relevant charge was paid, a further relevant charge may be paid by the insertion of the necessary coins into the apparatus or device aforesaid or alternative method of payment approved by the Council before the expiry of the said relevant period in respect of which the first relevant charge was paid, and for the purposes of this Order (including this paragraph) any such further payment shall be deemed to be the payment of the relevant charge and this Order shall apply accordingly.
- 6.(1) A vehicle shall not be left in the parking places marked A, B, C & D on the attached plan on any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday between 8.00 am and 6.00 pm for longer than the relevant period for which payment was made, or for longer than that period and any further period for which payment has been made in accordance with Article 5(4)

- (2) A vehicle shall not be left in the parking places marked E, F & G on the attached plan on any Monday, Tuesday, Wednesday, Thursday or Friday (other than a Bank or Public Holiday) between 7.00 am and 7.00 pm unless there is displayed in the relevant position on the vehicle a valid permit issued in respect of that vehicle.
7. The driver of a vehicle shall not permit the vehicle to wait in the parking place unless the vehicle is licensed in accordance with Section 1 of the Vehicles (Excise) Act 1971 and there is in force in relation to the use of the vehicle by the driver such a policy of insurance as complies with the requirements of Part VI of the Road Traffic Act 1988.
8. The driver of a vehicle using the parking place shall stop the engine as soon as the vehicle is in position, and shall not start the engine except for the purpose of changing the position of the vehicle or departing from the parking place.
- 9.(1) No person shall use a vehicle in the parking place in connection with the sale or offering for sale of goods to persons in or near the parking place or in connection with the sale or hire or offering for sale or hire of his skill or services.
- (2) No person shall use any part of the parking place or any vehicle in the parking place –
- (a) for sleeping or camping purposes; or
 - (b) for eating or cooking purposes,
- and no person shall use any part of the parking place for the purposes of servicing or repairing or washing a vehicle or any part thereof otherwise than as may be reasonably necessary to enable the vehicle to depart from the parking place.
10. No person shall in the parking place –
- (a) erect or cause to be erected any tent, booth, stand or other structure without the written consent of the Council; or
 - (b) light or cause to light any fire.

11. The driver of a vehicle in the parking place shall not sound the horn or other similar instrument except when the position of the vehicle in the parking place is being changed or the vehicle is leaving the parking place.
12. If signs are erected or marked in the parking place for the purpose of –
 - (a) indicating the entrance to or exit from the parking place; or
 - (b) indicating the direction in which a vehicle may proceed, no person shall drive –
 - (i) so as to enter or attempt to enter the parking place otherwise than by the entrance so indicated;
 - (ii) so as to leave or attempt to leave the parking place otherwise than by the exit so indicated
 - (iii) otherwise than in accordance with the sign or marking indicating the direction in which a vehicle may proceed.
13. No person shall, except with the permission of a person duly authorised by the Council, drive a vehicle in the parking place otherwise than for the purpose of leaving the vehicle in the parking place in accordance with the provisions of this Order or for the purpose of departing from the parking place.
14. In the event of a contravention of Article 5(2) the driver of the vehicle shall be the person responsible for the purposes of section 35A(1) of the 1984 Act.
- 15.(1) Payment of the relevant charge in accordance with Article 5(2) and of any further charge paid pursuant to Article 5(4) shall be shown by means of a ticket issued by the apparatus or device referred to in the said Article 5(2).
 - (2) The time at which any such payment was made shall also be shown by means of the said ticket.
16. Penalty Charges

- (1) If a vehicle is left in a parking place during the permitted hours or in any road or length of road in contravention of any provision of this Order, a penalty charge shall be payable and/or the vehicle may be removed from that location.
- (2) In the case of a vehicle in respect of which a penalty charge is payable, a penalty charge notice showing the information required by The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 may then be issued by a civil enforcement officer in uniform in accordance with the Traffic Management Act 2004
- (3) If a vehicle is left after a penalty charge has been incurred, a civil enforcement officer in uniform or a person acting under his direction may attach to the vehicle an immobilisation device and a notice in accordance with the requirements of Section 79 of the Traffic Management Act 2004 and that vehicle shall only be released from the device on payment of the penalty charge, or as the case may be the applicable discount or surcharge.
- (4) Where a civil enforcement officer has removed or caused to be removed a vehicle in accordance with paragraph (1) of this Article:-
 - a. he shall provide for the safe custody of the vehicle;
 - b. the Council shall be entitled to recover from the person responsible for 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 Road Traffic Regulation Act 1984 as amended shall apply to this disposal of any such vehicle removed by or on behalf of the Council pursuant to this Article.

Nothing in paragraphs (3) and (4) of this Article shall apply in respect of a vehicle displaying in the relevant position a valid disabled person's badge issued by any local authority.

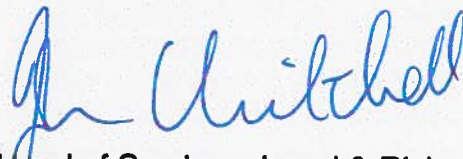
17. Manner of Payment of Penalty Charge and Reduced Penalty Charge

- (1) A Penalty Charge can be discharged by the driver of a vehicle in respect of which a Penalty Charge has been incurred by paying the applicable discount to the Council in the amount and manner prescribed on the Penalty Charge Notice
- (2) If the Penalty Charge is not discharged in accordance with paragraph (1) of this Article then the Penalty Charge shall be discharged by the driver of vehicle in respect of which a Penalty Charge has been incurred by paying the full amount of the Penalty Charge in the amount and manner prescribed on the Penalty Charge Notice

DATED this 25th day of January 2013

EXECUTED as a DEED by
affixing THE COMMON SEAL of
THE WIGAN BOROUGH COUNCIL
in the presence of:

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Head of Service – Legal & Risk



30/13

SCHEDULE

POSITION IN WHICH VEHICLE MAY WAIT	CLASSES OF VEHICLE	MAXIMUM PERIOD FOR WHICH VEHICLES MAY WAIT
Wholly within a parking bay	<p>Motor cars as defined in Section 136 (2) (a) of the 1984 Act.</p> <p>Motor cars as defined in Section 136 (2) (b) of the 1984 Act</p> <p>Motor cycles as defined in Section 136 (4) of the 1984 Act.</p> <p>Invalid carriages as defined in Section 136(5) of the 1984 Act.</p>	<p>In the parking places marked A, B, C & D on the attached plan on any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday between 8.00 am and 6.00 pm</p> <p>In the parking places marked E, F & G on the attached plan Monday, Tuesday, Wednesday, Thursday or Friday (other than a Bank or Public Holiday) between 7.00 am and 7.00 pm</p> <p>Or such other times that the Council may notify by a sign on the entrance to the parking place</p>

