

NORTH EAST LINCOLNSHIRE BOROUGH COUNCIL



The Borough of North East Lincolnshire Council (Introduction of Prohibition of Waiting Restrictions and Limited Waiting Parking Places) (Birchin Way, Grimsby) (No. 17-13) Order 2017

North East Lincolnshire Council, hereinafter referred to as "the Council", in exercise of powers conferred upon it under Sections 1, 2, 4, 32 and 35 of the Road Traffic Regulation Act 1984 (hereinafter referred to as 'the Act of 1984') as amended, and of all other enabling powers, hereby make the following Order.

1 **Title**

- 1.1 This Order shall come into operation on the ~~16th~~ day of *May*, 2018 and may be cited as The Borough of North East Lincolnshire Council (Introduction of Prohibition of Waiting Restrictions and Limited Waiting Parking Places) (Birchin Way, Grimsby) (No. 17-13) Order 2017.

2 **Definitions**

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

"A Person Authorised By The Council" means a person employed in accordance with Section 76 of The Act of 2004 to carry out the functions therein;

"The Act of 1984" means The Road Traffic Regulation Act 1984;

"The Act of 2004" means the Traffic Management Act 2004;

"TSRGD 2016" means the Traffic Signs Regulations and General Directions 2016, as amended;

"Article" means the Article of this Order unless otherwise stated and includes reference to any paragraph to that Article referred to by number or letter;

"Civil Enforcement Officer" means a person employed by, or on behalf of, the Council under the provisions of Part 6 of The Act of 2004 and in accordance with Section 76 of The Act of 2004 authorised to enforce the restrictions imposed by this Order and to carry out the functions therein;

"Council" means North East Lincolnshire Borough Council and includes any parking services contractors or authorised agents appointed by or acting on behalf of the Council for the purposes of any function under the provisions of this Order;

"Delivering" or **"Delivery"** or **"Collection"** means a continuous activity during which Goods or Merchandise are Loaded or Unloaded from a vehicle to adjacent premises or nearby premises including a reasonable time for the checking of those Goods or Merchandise for the purpose of their Delivery or Collection;

"Disabled Person's Badge" shall bear the same meaning as in the Local Authorities Traffic Orders (exemptions for disabled persons) regulations 2000 (as modified or superseded from time to time).

"Disabled Person's Parking Disc" shall bear the same meaning as in the Local Authorities Traffic Orders (exemptions for disabled persons) regulations 2000 (as modified or superseded from time to time).

"Disabled Person's Vehicle" means a vehicle lawfully displaying a Disabled Person's Badge.

"Driver" in relation to the vehicle left Waiting in a Prohibited Road or Parking Place, means the person driving the vehicle at the time it was left Waiting in the Prohibited Road or Parking Place or the person deemed to be the Driver by a

Police Officer in uniform or a Civil Enforcement Officer in uniform acting under the terms of this Order;

“Emergency” shall be defined as a situation that poses an imminent risk to health, life, property or environment which requires immediate intervention.

“Emergency Vehicle” shall bear the same meaning as in Regulation 3(2) of the Road Vehicle Lighting Regulations 1989 (as modified or superseded from time to time).

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

“Fee” in relation to Waivers means a non-refundable charge levied by the Council;

“Funeral And Wedding Vehicles” means those vehicles attending funerals or weddings to which Penalty Charge Notices will not be issued pursuant to the Council’s Civil Parking Enforcement Procedures 2010 as it relates to Funerals and Weddings;

“Goods” and **“Merchandise”** means Goods of any kind whether animate or inanimate and includes Postal Packets of any kind that require transportation by a vehicle;

“Loading” and **“Unloading”** means a continuous activity during which Goods or Merchandise are placed in or taken from a vehicle that is Waiting at premises or adjacent to premises or nearby premises for the purpose of Delivery or Collection of those Goods or Merchandise provided that the Loading, Unloading, Delivery and/or Collection activities are completed in a time deemed reasonable by a Police Officer in uniform, Civil Enforcement Officer in uniform or A Person Authorised by the Council. Where no signs of Loading or Unloading activity are observed over the Observation Period it will be deemed that Loading or Unloading is not taking place;

“Observation Period” means a period of time during which a Police Officer in uniform, Civil Enforcement Officer in uniform or A Person Authorised by the Council undertakes observations pursuant to the Council’s parking enforcement policy;

“Parking Place” means any of the sides or lengths of roads specified in Schedule 2, indicated on street by Traffic Signs, and shown indicatively on The Plans.

“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 or any subsequent legislation so enabling;

“Penalty Charge Notice” has a meaning given by Regulation 8(1) of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 or any subsequent legislation so enabling;

“The Plans” means the plans attached to this Order including keys, which has drawing number TR-17-13 assigned to it.

“Postal Packet(s)” has the same meaning as in Section 87 of the Post Office Act 1953;

“Prohibited Road” means any of the sides or lengths of roads specified in Schedule 1 and as shown indicatively on The Plans.

“Relevant Position” in respect of:-

- a) a Disabled Person’s Badge means exhibited on the windscreen, dashboard or fascia of the vehicle with the obverse side facing forwards on the nearside of and immediately behind the windscreen or where the vehicle does not have a windscreen, dashboard or fascia, in a conspicuous position on the vehicle orientated so that the whole of the information on the front of the permit is clearly legible from the outside of the vehicle;
- b) a Waiver certificate means exhibited on the windscreen, dashboard or fascia of the vehicle with the obverse side facing forwards on the nearside of and immediately behind the windscreen or where the vehicle does not have a windscreen, dashboard or fascia, in a conspicuous position on the vehicle orientated so that the whole of the information on the front of the permit is clearly legible from the outside of the vehicle

“Security Vehicle” means a vehicle designed or adapted for or in use for the conveyance of bullion, monies and currency and other securities;

“Statutory Undertaker(s)” has the same meaning as in Section 329 of the Highways Act 1980;

“Telecommunication System” has the same meaning as in the Telecommunications Act 1984;

“Traffic Regulation Order”, “Order” or “TRO” have the same meaning respectively, that being an Order made under Section 1 of the Act 1984;

“Traffic Sign” means a sign or road marking of any size, colour and type prescribed or authorised under, or having effect as though prescribed or authorised under, TSRGD2016;

“Trailer” has the same meaning as that in Section 136 of the 1984 Act;

“Universal Service Provider” shall bear the same meaning as in the Postal Services Act 2000;

“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 and a vehicle shall be deemed to be waiting for any period in the same Prohibited Road or Parking Place if any part of the Prohibited Road or Parking Place is below the vehicle or the vehicle’s load (if any) whether or not the vehicle is moved during that period;

“Waiver” means a certificate or Permit issued by or on behalf of the Council for the purposes of this Order permitting a specified vehicle to Wait in specified circumstances on a length or lengths of road where the Waiting of that vehicle would otherwise be restricted or prohibited under the terms and charges applicable at the time of issue.

- 2.2 For the purpose of this Order unless otherwise specified all references to any documents including Statutory Instruments, Regulations and policies and procedures of the Council relate to the current version of those documents as amended or substituted from time to time.

- 2.3 For the purpose of this Order the prohibitions and restrictions contained in the Articles to this Order and shown on the attached Plans and Schedules shall apply to the full extent of the public highway.
- 2.4 For the purpose of this Order a vehicle shall be taken as Waiting on a length of road if any point on that length of road is below the vehicle or its load (if any).
- 2.5 The prohibitions imposed by this Order shall be in addition to and not in derogation of any restriction, prohibition or requirement imposed by any Regulations or Orders made or having effect as if made under The Act of 1984, or by or under any other Enactment.
- 2.6 For the purposes of this Order, North East Lincolnshire Council accepts no responsibility for any inaccuracies contained in the Ordnance Survey data relied upon in the preparation of The Plans attached to this Order. Where a restriction applies to the edge of a length of carriageway or highway (adjacent to the kerb) that restriction will continue to apply to the actual edge of carriageway or highway irrespective of changes to either the carriageway width or to the underlying Ordnance Survey data.
- 2.7 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 unenforceable, such declaration shall not invalidate the remainder of the Order.

3 Exemptions

- 3.1 Nothing in Article 4.1 to this Order shall render it unlawful to cause or permit any vehicle to Wait in any of the Prohibited Roads for so long as it may be necessary to enable a person to board or alight from the vehicle.
- 3.2 Nothing in Articles 4.1, 5.1 and 5.3 to this Order shall render it unlawful to cause or permit any vehicle to Wait in any of the Prohibited Roads and Parking Places for so long as it may be necessary to enable the Delivery or Collection of Goods including where Goods are Loaded onto or Unloaded from the vehicle provided that Loading or Unloading is carried out in one continuous operation.
- 3.3 Nothing in Articles 4.1, 5.1, 5.2, 5.3 and 5.4 to this Order shall render it unlawful to cause or permit any vehicle to Wait in any of the Prohibited Roads and Parking Places for so long as it may be necessary to enable the vehicle, if it cannot conveniently be used for such purpose in any other road and close proximity to the site is essential, to be used for the purpose of any Emergency building operation, demolition or excavation, or the maintenance or improvement or reconstruction of the said Prohibited Roads or any works connected with any Statutory Undertaker's apparatus for the supply of gas, water or electricity or of any Telecommunications System.
- 3.4 Nothing in Article 4.1, 5.1 and 5.3 to this Order shall render it unlawful to cause or permit any vehicle to Wait in any of the Prohibited Roads and Parking Places for so long as it may be necessary to enable the vehicle, if it cannot conveniently be used for such purpose in any other road, to be used in the service of the Council in pursuance of statutory powers or duties.

- 3.5 Nothing in Articles 4.1, 5.1 and 5.3 to this Order shall render it unlawful to cause or permit any vehicle to Wait in any of the Prohibited Roads and Parking Places for so long as it may be necessary to enable the vehicle of a Universal Service Provider (to Wait whilst Postal Packets addressed to premises adjacent to that Prohibited Road or Parking Place are being Unloaded from the vehicle or having Unloaded therefrom are being delivered or while Postal Packets are being collected from premises or posting boxes adjacent to that Prohibited Road or Parking Place, provided that the vehicle cannot reasonably be used for such purpose in any other road and for as long as may be necessary in conjunction with these purposes.
- 3.6 Nothing in Articles 4.1, 5.1, 5.2, 5.3 and 5.4 to this Order shall render it unlawful to cause or permit any vehicle to Wait in any of the Prohibited Roads and Parking Places for so long as it may be necessary to enable an Emergency Vehicle to be used in the course of an Emergency.
- 3.7 Nothing in Articles 4.1, 5.1, 5.2, 5.3 and 5.4 to this Order shall render it unlawful to cause or permit any vehicle to Wait in any of the Prohibited Roads for so long as it may be necessary to enable the vehicle to be used in any case where the person in control of the vehicle:
- a) is required by law to stop or Wait or is permitted to stop or Wait by a Police Officer in uniform or Civil Enforcement Officer in uniform;
 - b) is obliged to stop so as to prevent an accident; or
 - c) is prevented from proceeding by circumstances outside their control.
- 3.8 Nothing in Articles 4.1, 5.1, 5.3 and 5.4 to this Order shall render it unlawful to cause or permit any vehicle to Wait in any of the Prohibited Roads or Parking Places for so long as it may be necessary to enable the vehicle to be Loaded or Unloaded whilst it is in actual use in connection with the removal of furniture and effects from one office or dwelling house to another or to such premises from a depository or from such premises to a depository notwithstanding anything contained in Article 3.2 above as to Waiting in the Prohibited Roads and Parking Places.
- 3.9 Nothing in Article 4.1 to this Order shall render it unlawful to cause or permit any vehicle to Wait in any of the Prohibited Roads for so long as it may be necessary to enable a Security Vehicle to be used in the course of Delivering or collecting cash to/from properties in any of the Prohibited Roads and being a vehicle specifically designed for that purpose.
- 3.10 Nothing in Article 4.1 to this Order shall apply to Funeral and Wedding Vehicles at a funeral or wedding.
- 3.11 Nothing in Article 4.1 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 Disabled Person's 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 any of the Prohibited Roads for a period not exceeding three hours (not being a period separated by an interval of less than one hour from the previous period of Waiting by the same vehicle in the same length of road).

- 3.12 Nothing in Articles 4.1, 5.1, 5.3 and 5.4 of this Order shall prevent any person from causing or permitting any vehicle to Wait in any of the Prohibited Roads and Parking Places provided that permission has been obtained from the Council by means of a Waiver to be displayed in the front or nearside of the vehicle and which includes information to enable the Driver to be contacted in an Emergency and providing that an obstruction is not caused by so doing and that the vehicle is moved if the Driver is requested to do so by a Police Officer in uniform or Civil Enforcement Officer in uniform.
- 3.13 Nothing in Article 4.1 of this Order shall apply so as to prevent any person from causing or permitting any vehicle to Wait in any of the Prohibited Roads for so long as may be necessary to enable the vehicle if it cannot be used for such purpose without Waiting on that length of road to be used in connection with the removal of any item in the highway where such moving may be reasonably necessary for the purpose of preventing obstruction.
- 3.14 Nothing in Articles 5.1 and 5.3 of this Order shall apply so as to prevent the Driver of a Disabled Person's Vehicle which displays in the Relevant Position a Disabled Person's Badge to Wait in any of the Parking Places.

4 General Provisions relating to Prohibition of Waiting restrictions

- 4.1 Save as provided in Articles 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12 and 3.13 of this Order no person shall, except upon the direction or with the permission of a Police Officer in uniform or of a Civil Enforcement Officer in uniform cause or permit any vehicle (and/or drawn Trailer) to Wait in the Prohibited Roads.

5 Provisions relating to on-street Parking Places

- 5.1 Save as provided in Articles 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.12, and 3.14 the Driver of a vehicle (and/or drawn Trailer) shall not permit it to Wait in a Parking Place for longer than the maximum period permitted for Waiting specified in relation to those Parking Places.
- 5.2 Save as provided in Articles 3.3, 3.6 and 3.7 the Driver of a vehicle shall not permit it to Wait in a Parking Place otherwise than wholly within the limits of that Parking Place as indicated by Traffic Signs.
- 5.3 Save as provided in Articles 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.12 and 3.14 when a vehicle has left a Parking Place after Waiting thereon, the Driver thereof shall not within 1 hour after its leaving permit it to Wait again upon that Parking Place.
- 5.4 Save as provided in Articles 3.3, 3.6, 3.7, 3.8, and 3.12 the Driver of a vehicle drawing a Trailer shall not permit the vehicle or the Trailer to Wait in a Parking Place unless they have been disconnected and for the purposes of this Order the vehicle and the Trailer shall be deemed to be separate vehicles and the Driver shall be deemed to be the Driver of each of the said vehicles.

POWER TO SUSPEND USE OF PARKING PLACES

- 5.5 A Police Constable in uniform, Civil Enforcement Officer in uniform or A Person Authorised by the Council in that behalf may suspend the use of a Parking Place, or any part thereof whenever they consider such suspension reasonably necessary:
- a) for the purpose of facilitating the movement of traffic or for promoting its safety; or
 - b) for any purpose specified in Article 3.3 of this Order.
- 5.6 A Police Officer in uniform when conferring the power of 5.5(a) may only suspend the use of a Parking Place for no longer than twenty-four hours.
- 5.7 Any person suspending the use of a Parking Place or any part thereof in accordance with the provisions of Articles 5.5 and 5.6 shall thereupon place or cause to be placed in or adjacent to that Parking Place or the part thereof the use of which is suspended, a Traffic Sign indicating that Waiting by vehicles is prohibited.
- 5.8 No person shall cause or permit a vehicle to be present in any part of a Parking Place or part thereof during a period of suspension unless permitted in accordance with the reasons for the suspension.
- 5.9 Subject to the proviso hereto, when a vehicle and/or Trailer is left in a Parking Place or part thereof in contravention of any of the provisions contained in Articles 5.1, 5.2, 5.3, 5.4, and 5.8 of this Order, A Person Authorised by the Council may remove the vehicle and/or Trailer or arrange for it to be removed from that Parking Place or part thereof, provided that when a vehicle is Waiting in the Parking Place in contravention of the provisions of Article 5.5 (b) of this Order, A Person Authorised by the Council may alter or cause to be altered the position of the vehicle in order that its position shall comply with that provision.
- 5.10 Any person removing a vehicle or altering its position by virtue of Article 5.9 of this Order may do so by towing or driving the vehicle or in such other manner as they may think necessary to enable them to remove it as aforesaid and may take such measures in relation to the vehicle as necessary to enable the vehicle to be removed or to alter the position of the vehicle as the case may be and shall make such arrangements as may be reasonably necessary for the safe custody of the vehicle.

6 Waivers

- 6.1 Upon receipt of an application duly made under the provisions of this Order, the Council upon being satisfied that the applicant satisfies the requirements and on receipt of any Fee that the Council may from time to time determine may issue to the applicant a Waiver for leaving in the parts of the carriageway in which such Waivers are valid, provided that the Council may impose such conditions on the use of the Waiver as it considers appropriate and that any limit applying to the number of Waivers issued is not exceeded.

- 6.2 A Waiver 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 served on the person to whom such Waiver was issued by sending the same to the Waiver holder at the address shown by that person on the application for the Waiver, or at any other address believed to be that persons place of abode, requiring that person to surrender the Waiver to the Council within 48 hours of receipt of the aforementioned notice.

7 Contravention and Penalty Charge

CONTRAVENTION AND PENALTY CHARGE NOTICES

- 7.1 Where a vehicle has been left in contravention of the restrictions imposed by this Order, a Penalty Charge shall be incurred, the amount of which will be set by North East Lincolnshire Borough Council under the relevant provisions of The Act of 2004.
- 7.2 Where a Penalty Charge is payable, a Penalty Charge Notice shall be issued by a Civil Enforcement Officer in accordance with The Act of 2004.

MANNER OF PAYMENT OF PENALTY CHARGE NOTICE

- 7.3 The Penalty Charge shall be paid within 28 days payable to North East Lincolnshire Borough Council under the terms referred to in the said Notice.

RESTRICTION ON REMOVAL OF PENALTY CHARGE NOTICE

- 7.4 Where a notice has been attached to a vehicle in accordance with the provisions of The Act of 2004, no person not being the Driver of the vehicle or duly authorised representative of the Council shall remove the notice from the vehicle unless authorised to do so by the Driver.

SCHEDULE 1 – Prohibited Roads

“Prohibition of Waiting: No Waiting at Any Time”

STREET	SIDE	LENGTHS OF ROAD
Birchin Way	South	From the Western extent of Birchin Way to a point 352m South East of the Western extent of Birchin Way
Birchin Way	North	From the Western extent of Birchin Way to a point 23m East of the Western extent of Birchin Way.
Birchin Way	North	From a point 50m East of the Western extent of Birchin Way to a point 166m East of the Western extent of Birchin Way.
Birchin Way	North	From a point 189m South East of the Western extent of Birchin Way, in a South Easterly direction, to a point 215m South East of the Western extent of Birchin Way.
Birchin Way	North	From a point 232m South East of the Western extent of Birchin Way, in a South Easterly direction, to a point 348m South East of the Western extent of Birchin Way.

SCHEDULE 2 – Parking Places

“Limited Waiting Mon-Sat 8am-6pm, 1 hour No return within 1 hour”

STREET	SIDE	LENGTHS OF ROAD
Birchin Way	North	From a point 23m East of the Western extent of Birchin Way, in an Easterly direction, to a point 50m East of the Western extent of Birchin Way.
Birchin Way	North	From a point 166m East of the Western extent of Birchin Way, in a South Easterly direction, to a point 189m South East of the Western extent of Birchin Way.
Birchin Way	North	From a point 215m South East of the Western extent of Birchin Way, in a South Easterly direction, to a point 232m South East of the Western extent of Birchin Way.

**THE COMMON SEAL OF THE
NORTH EAST LINCOLNSHIRE
BOROUGH COUNCIL**

was hereunto affixed this

1st day of

may 2018

In the presence of

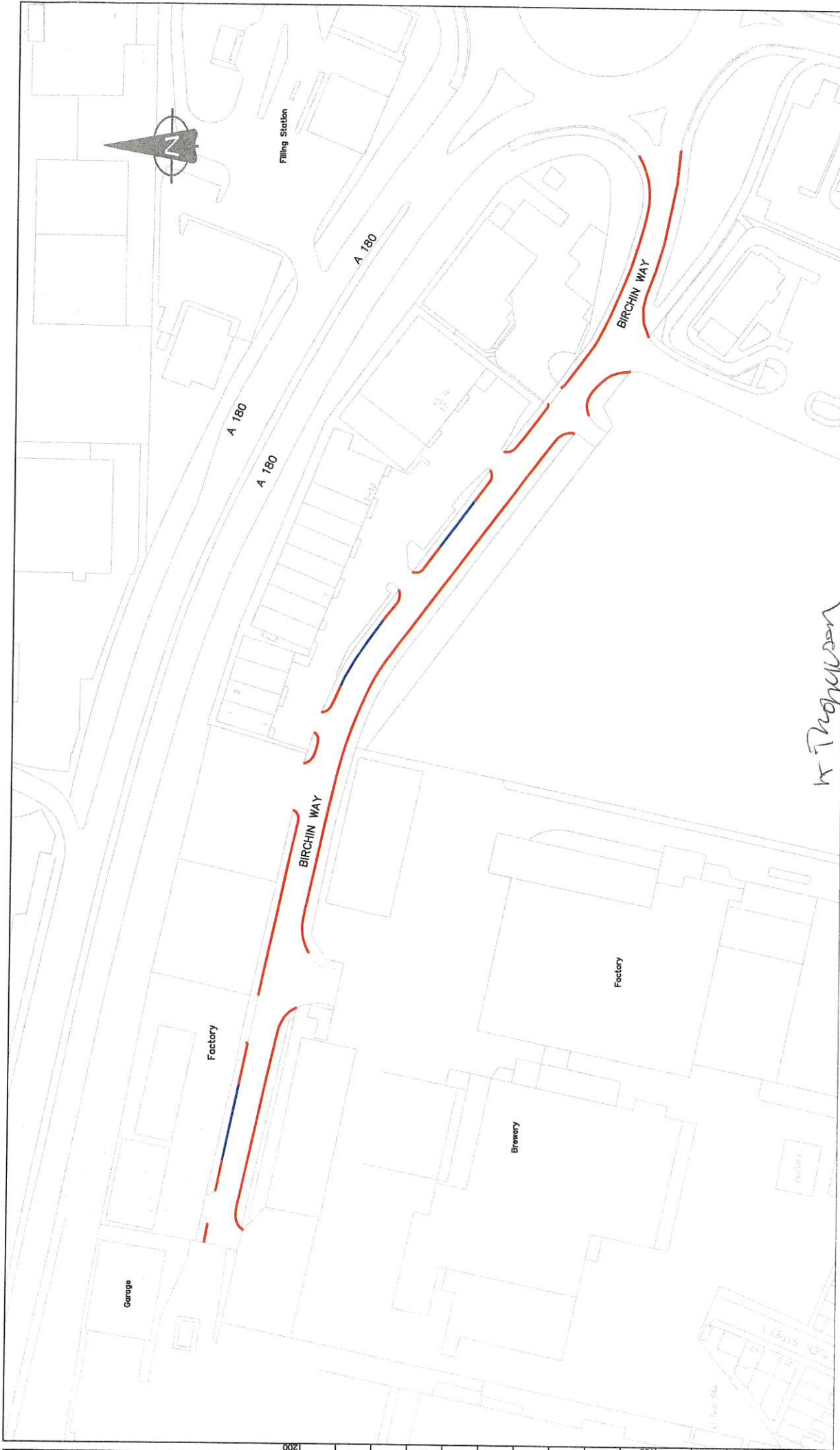
Authorised Officer

W. Thompson



7954





Letter	Amendment	Drawn	Date
	Extent of 24 hour Prohibition of Waiting restrictions – to be introduced		
	Limited Waiting Parking Places Mon-Sat 8am-6pm 1 hour no return within 1 hour – to be introduced		

Mapping material in this plot has been reproduced from the Ordnance Survey Digital Data with the permission of the Controller of HMSO (c). Crown Copyright Reserved 1996, Licence No. 100020759. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

K. Thompson



ENGIE
Working in Partnership
Origin Two, Origin Way, Europarc, Grimsby, North East
Lincolnshire, DN37 9TZ
Tel: 01472 313131

North East Lincolnshire Council

Scale Check (Millimetres), Do Not Scale from this drawing.

PROJECT		Birchin Way, Grimsby	
TITLE		Traffic Regulation Orders: Limited Waiting Parking and Prohibition of Waiting	
DRAWN	AB	APPROVED	FILE NAME
FILE REF.		DATE	DRAWING No.
ORIGINAL SIZE	A3 (297 x 420)	SCALE	1:1000
		TR-17-13	

