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NORTH EAST LINCOLNSHIRE BOROUGH COUNCIL



**The North East Lincolnshire Borough Council
(Prohibition of Waiting Restrictions)
(Marklew Avenue, Grimsby)
(No. 19-07) Order 2021**

North East Lincolnshire Council, hereinafter referred to as “the Council”, in exercise of powers conferred upon it under Sections 1, 2, and 4, and Part IV of Schedule 9 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 day of , 2021 and may be cited as The Borough of North East Lincolnshire Council (Prohibition of Waiting Restrictions) (Marklew Avenue, Grimsby) (No. 19-07) Order 2021.

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;

“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meaning as in the Local Authorities Traffic Orders (exemptions for disabled persons) regulations 2000 (as modified or superseded from time to time).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).

“Driver” in relation to the vehicle left Waiting in a Prohibited Road, means the person driving the vehicle at the time it was left Waiting in the Prohibited Road 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 parking 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;

“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 drawing attached to this Order which has drawing number TF-RM-20-010 assigned to it.

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

“Prohibited Hours” means in relation to each individual Prohibited Road the hours whereby Waiting is prohibited during the specific hours as specified in Schedule 2 and shown indicatively on The Plans.

“Prohibited Road” means any of the sides or lengths of roads specified in Schedule 2 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 Section1 of the Act 1984;

“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 if any part of the Prohibited Road is below the vehicle or the vehicle’s load (if any) whether or not the vehicle is moved during that period;

“Waiver” means electronic or hard copy of an exemption 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.
- 2.8 Unless the context otherwise requires, the words in the singular shall include the plural and in the plural shall include the singular.

3 Revocations

The North East Lincolnshire Borough Council (Prohibition and Restriction of Waiting, Clearways and On Street Parking) (Consolidation) Order 2010 (as amended) Map Schedule 022 Issue No.13-18 shall from the date this Order comes into operation be revoked in part so that the said Order shall not impose those restrictions in the lengths of roads as described in Schedule 1.

4 Exemptions

- 4.1 Nothing in Article 5.1 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.
- 4.2 Nothing in Article 5.1 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 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.

- 4.3 Nothing in Article 5.1 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 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.
- 4.4 Nothing in Article 5.1 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 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.
- 4.5 Nothing in Article 5.1 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 the vehicle of a Universal Service Provider (to Wait whilst Postal Packets addressed to premises adjacent to that Prohibited Road 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, 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.
- 4.6 Nothing in Article 5.1 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 an Emergency Vehicle to be used in the course of an Emergency.
- 4.7 Nothing in Article 5.1 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 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.
- 4.8 Nothing in Article 5.1 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 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 4.2 above as to Waiting in the Prohibited Roads.
- 4.9 Nothing in Article 5.1 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.

- 4.10 Nothing in Article 5.1 to this Order shall apply to Funeral and Wedding Vehicles at a funeral or wedding.
- 4.11 Nothing in Article 5.1 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).
- 4.12 Nothing in Article 5.1 of this Order shall prevent any person from causing or permitting any vehicle to Wait in any of the Prohibited Roads provided that permission has been obtained from the Council by means of a Waiver 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.
- 4.13 Nothing in Article 5.1 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.

5 General Provisions relating to Prohibition of Waiting restrictions

- 5.1 Save as provided in Articles 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 and 4.13 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 during the Prohibited Hours.

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 - Revocations

The North East Lincolnshire Borough Council (Prohibition and Restriction of Waiting, Clearways and On Street Parking) (Consolidation) Order 2010 (as amended)

“No Waiting - Monday to Saturday 8am to 8pm”

<u>ROAD</u>	<u>SIDE</u>	<u>EXTENT</u>
Marklew Avenue	EASTERN KERB LINE	The full extent
Marklew Avenue	WESTERN KERB LINE	The full extent
Cromwell Road	NORTHERN KERB LINE	Between the roundabout junction with Boulevard Avenue / Yarborough Road and the eastern property boundary of 158 Cromwell Road
Cromwell Road	SOUTHERN KERB LINE	From its roundabout junction with Boulevard Avenue / Yarborough Road to a point 10 metres south east of the eastern kerb line of Marklew Avenue

SCHEDULE 2 – Prohibited Roads

“24 Hour Prohibition of Waiting”

<u>ROAD</u>	<u>SIDE</u>	<u>EXTENT</u>
Marklew Avenue	EASTERN KERB LINE	From the southern kerb line of Cromwell Road, in a south-westerly direction for a distance of 32.6 metres
Marklew Avenue	WESTERN KERB LINE	From the southern kerb line of Cromwell Road, in a south-westerly direction for a distance of 49.1metres
Marklew Avenue	EASTERN KERB LINE	From the northern kerb line of Fairfax Road, in a northerly direction for a distance of 5.8 metres
Marklew Avenue	EASTERN KERB LINE	From the southern kerb line of Fairfax Road, in a southerly direction for a distance of 14.4 metres
Cromwell Road	SOUTHERN KERB LINE	From the western kerb line of Marklew Avenue, in a westerly direction to the western property boundary of 5 Yarborough Road
Cromwell Road	SOUTHERN KERB LINE	From the eastern kerb line of Marklew Avenue, in a south-easterly direction for a distance of 10 metres
Cromwell Road	NORTHERN KERB LINE	From the eastern boundary of 158 Cromwell Road, in a north-westerly direction for a distance of 51.7 metres
Fairfax Road	NORTHERN KERB LINE	From the eastern kerb line of Marklew Avenue, in an easterly direction for a distance of 11 metres
Fairfax Road	SOUTHERN KERBLINE	From the eastern kerb line of Marklew Avenue, in an easterly direction for a distance of 7.5 metres

Yarborough Road	SOUTHERN KERB LINE	From a point 5.6 metres north of the southern boundary of 11 Yarborough Road, in a north easterly direction to the western property boundary of 5 Yarborough Road
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“No Waiting – Monday to Saturday, 8am to 6pm”

<u>ROAD</u>	<u>SIDE</u>	<u>EXTENT</u>
Marklew Avenue	EASTERN KERB LINE	From a point 32.6 metres from the southern kerb line of Cromwell Road, in a south-westerly direction for a distance of 46.1 metres

This order is executed
By **North East Lincolnshire Borough Council**
Acting by two authorised signatories on this

Day of

2021



PROJECT: Traffic Regulation Order Project 19-07

TITLE: Marklew Avenue/Cromwell Road Waiting Restrictions

DRAWN: NH	APPROVED:	FILE NAME: 11 - 2019 TRO Programme\19-07 Marklew Avenue
DATE: 29/09/2020		DRAWING No.:
ORIGINAL SIZE: A3 (297 x 420)	SCALE: NTS	TF-RM-20-010

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CLIENT: NORTH EAST LINCOLNSHIRE COUNCIL

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