NORTH EAST LINCOLNSHIRE BOROUGH COUNCIL



The Borough of North East Lincolnshire Council (Off-Street Parking Places) Garden Street Order 2022

The Council of the Borough of North East Lincolnshire, hereinafter referred to as "the Council", in exercise of powers under Sections 32, 35, as amended ("the 1984 Act") and under the Traffic Management Act 2004 as amended ("the 2004 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 of 1984 hereby makes the following Order: -

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PART 1 - GENERAL

1. Commencement and Citation

1.01 This Order may be cited as "The Borough of North East Lincolnshire (Off-Street Parking Places) Garden Street Order 2022 and shall come into operation on the 29th day of April 2022.

2. Interpretation

- 2.01 The Interpretation Act 1978 shall apply for the interpretation of this order.
- 2.02 In this Order:

"1984 Act" means the Road Traffic Regulation Act 1984.

"TMA of 2004" and "2004 Act" mean the Traffic Management Act 2004.

2.03 In this Order all expressions, except where the context otherwise requires, shall have the meanings assigned to them:

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

"Bus" means a Motor Vehicle constructed or adapted to carry more than 8 seated passengers (excluding the Driver).

"Camper Van" has the same meaning as 'Motor Caravan'.

"Caravan" means a vehicle, not being a Motor Vehicle, which is not constructed or adapted to carry a load or passengers, and which contains permanently installed equipment and sleeping accommodation being facilities, which are reasonably necessary for enabling the vehicle to provide mobile living accommodation.

"Civil Enforcement Officer" means a person authorised by or on behalf of the Council to supervise the Parking Place and enforce the restrictions imposed by this Order.

"Coach" means a Motor Vehicle constructed or adapted to carry more than 14 passengers (exclusive of the Driver).

"Charging Period" means a period stated in Column 5 of Schedule 2 in respect of the relevant Parking Place.

"Closed" means when a notice, sign or barrier has been erected or displayed thereon by authority of the Council, notifying the public of times or dates when a Parking Place will not be available for use (in part or completely).

"Council" means the North East Lincolnshire Borough Council, and includes, a person duly authorised by the Council to act on its behalf in connection with this Order.

"Council Permit" means a permit as described in Schedule 2.2 and as varied or added to by the policy of the Council from time to time.

"Disabled Person" has the same meaning as in Regulation 2 of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000.

"Disabled Person's Badge" means any badge issued, or having effect as if issued, under Section 21 of the Chronically Sick and Disabled Person's Act 1970.

"Disabled Person's Vehicle" means a vehicle lawfully displaying a Disabled Person's Badge in the relevant position and the vehicle has been or it is about to be used by the person(s) in respect of whom the Disabled Person's badge has been issued either immediately before or immediately after the act of parking.

"Driver" in relation to a Parking Place means the person driving the vehicle.

"Electronic Payment" means a cashless parking payment method of charges for use in a Parking Place where facilities at that Parking Place allow payment by telephone or electronic means, allowing vehicles of such classes, in such positions, on such days, during such hours and for such period as are specified at each Parking Place and specified in the Schedule of the Parking Place to be parked for the period of time for which Electronic Payment has been made. A transaction fee (convenience charge) may be incurred in addition to the scale of current charges as specified on site and specified in the Schedule of the Parking Place, for the use of this Electronic Payment method.

"Electronic Permit" means a Permit which has been paid for and issued electronically which will appear on a Hand-Held Computer used by a Civil Enforcement Officer.

"Expiry Time" is the time indicated on the Pay and Display Ticket, Voucher or Electronic Payment and is the time by which the parking period for which payment was made has expired.

"Expiry Date" is the date indicated on the Permit by which the parking period for which payment was made has expired.

"Free Period" is one occasion per Charging Period of continuous waiting at that Parking Place if and when applicable. Any Free Periods will be advised at the Parking Place or by an Electronic Payment.

"Goods Vehicle" means a Motor Vehicle constructed or adapted for use for the carriage of goods or burden of any description, or a trailer so constructed or adapted.

"Hand-Held Computer" means a wireless device used by a Civil Enforcement Officer, which is programmed to interface with any Electric Payment and enforcement system

"Motor Vehicle" has the same meaning as in section 136(1) of the Act of 1984

"Motor Caravan" means a Motor Vehicle having at least four wheels which is constructed for the carriage of passengers and having living accommodation including sleeping accommodation.

"Motorcycle" has the same meaning as in section 136(4) of the Act of 1984 for the purpose of this Order, the term shall be deemed to refer only to a solo motorcycle.

"Owner" in relation to a vehicle means the person at the material time by whom the vehicle is kept which in the case of a 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 at the material time.

"Parking Bay" means an area marked within a Parking Place for the parking of a class or classes of vehicle.

"Parking Charge" means the fee payable for parking in a Parking Place as specified in Schedule 2, column 7 relevant for that Parking Place.

"Parking Place" means those areas of land listed in Schedule 1 and shown on the plans therein described and attached to this order.

"Pay and Display Parking Place" means a Parking Place for which there are charges applicable as listed in column 7 of Schedule 2.

"Pay and Display Ticket" means a Ticket either purchased or obtained for a period and issued by a Ticket Machine located in the Pay and Display Parking Place in which the vehicle has been left or issued by a person nominated by the Council on payment of a charge and valid for a Parking Period.

"Penalty Charge" means a charge set by the Council under the provisions of Section 77 and Schedule 9 of the TMA of 2004 and The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges)(England) Order 2007 (as amended) which is to be paid to the Council within 28 days beginning with the date of issue endorsed upon the Penalty Charge Notice, unless an appeal is made using the official appeals framework as set out by the Joint Committee of England and Wales for the Civil Enforcement of Parking and Traffic Regulations Outside London, in which case the payment would need to be made if the informal challenge, formal representation, Independent Adjudicators decision dismisses the case.

"Penalty charge notice" means a notice described in Section 78 of the 2004 Act having effect as if issued or served by a Civil Enforcement Officer or posted by the Council under any regulations for the time being in force under Section 78 of the 2004 Act.

"Permit" means any Season Ticket or Council Permit (virtual or physical).

"Person in Charge" in relation to a vehicle waiting in a Parking Place, means the person driving the vehicle at the time it was left in the Parking Place, or in the case of a Trailer means the person who was driving the vehicle which towed the Trailer into the Parking Place at the time it entered the Parking Place.

"Quad Bike" means an all-terrain vehicle with four wheels.

"Season Ticket "means a Permit as described in Schedule 2.1.

"Service request" is whereby a customer or Person in Charge of a vehicle contacts the Council either by E-mailing or telephoning using the email address and contact numbers displayed on the information signs within the car park to report a fault with a Ticket Machine. At the time of the Service Request, the caller should disclose their full name, contact details, vehicle registration number, car park location and details of the problem encountered.

"Schedule" means a Schedule of this Order unless otherwise stated.

"Ticket machine" means apparatus or for the purpose of issuing Pay and Display Tickets and Vouchers in the Parking Place.

"Trailer" has the same meaning as in Section 136(1) of the Act of 1984 and shall include a Caravan.

"Voucher" means a form of validation obtained for a Free Period and issued by a Ticket Machine located in the Parking Place or alternative Electronic Payment in which the vehicle has been left as specified at the Parking Place and advertised at the time.

- (1) a Disabled Person's Badge in the "relevant position" when
 - (a) in the case of a vehicle fitted with a dashboard or fascia panel, the badge is exhibited on the near side thereon so that the front of the badge, is legible from outside the vehicle; or
 - (b) in the case of a vehicle not fitted with a dashboard or fascia panel, the badge is exhibited on the near side in a conspicuous position on the vehicle so that the front of the badge is legible from outside the vehicle.
- (2) a Pay and Display Ticket, Voucher, or Permit in the "relevant position" when
 - (a) the Ticket, Voucher, or Permit is exhibited on the near side on the inside surface of the windscreen or in a clearly visible position so that it is facing forwards and can be easily seen and read from the front or side of the vehicle; or
 - (b) in the case of a vehicle that is not fitted with a transparent windscreen, the Ticket, Voucher, or Permit is exhibited on the near side on the front of the vehicle facing forwards and clearly visible.
- 2.05 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.
- 2.06 Unless the context otherwise requires, the words in the singular shall include the plural and, in the plural, shall include the singular.
- 2.07 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 and any reference to the Schedules or Plans is a reference to the Schedules or Plans incorporated into this Order.
- 2.08 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.
- 2.09 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 un-enforceable, such declaration shall not invalidate the remainder of the Order.

PART II DESIGNATION AND USE OF PARKING PLACE

3 <u>Designation</u>

The Parking Place may be used, subject to the following provisions of this Order, as a parking place for such classes of vehicles, in such positions, on such days, during such hours and for such periods as are specified in relation to that Parking Place in Schedule 2. No person shall use a Parking Place for any other purpose whatsoever unless the Council has given written authorisation.

- 3.02 No person shall permit a vehicle to park in a Parking Place unless it is of a class of vehicle as specified in column 2 of Schedule 2 for that Parking Place. The vehicle must be parked wholly within a Parking Bay (where Parking Bays are present) and where relevant parked in a specified position for the class of vehicle or not parked in a position specified for another class of vehicle.
- 3.03 No person shall cause or permit a vehicle to wait in a Parking Place or part thereof that has been marked by means of a sign or surface marking specifically for use by disabled persons unless the vehicle displays a valid Disabled Person's Badge in the Relevant Position and unless the vehicle has been or it is about to be used by the person(s) in respect of whom the Disabled Person's badge has been issued either immediately before or immediately after the act of parking.
- No person shall cause or permit a vehicle to park in a Parking Bay marked for motorcycles unless the vehicle is a solo Motorcycle without a sidecar.
- 3.05 No person shall cause or permit a vehicle to wait or park on any yellow line, hatched area or cause an obstruction in a Parking Place to a Parking Bay, driveway, or entrance and exit to the Parking Place. Every part of the vehicle must be within the limits of the Parking Bay and not more than one vehicle shall occupy any one such Parking Bay.

Use of Parking Place

- 3.06 No person shall cause or permit a vehicle to wait in a Parking Place for longer than the maximum period permitted for waiting specified in column 6 of Schedule 2 in relation to that Parking Place.
- 3.07 No person shall cause or permit a vehicle to wait in a Parking Place when a notice, sign or barrier erected or displayed thereon by authority of the Council, has Closed a Parking Place (in part or completely).
- 3.08 If Parking Bays are marked out in a parking place the Person in Charge of a vehicle shall ensure that it is positioned
 - (a) wholly within a Parking Bay appropriate for that and shall not permit it to wait in that Parking Place unless it is so positioned; or
 - (b) if Parking Bays are not marked out in a Parking Place the Person in Charge of a vehicle shall ensure that it is not parked in such part of a Parking Place marked as a no parking place and ensure that the vehicle is positioned so that it does not obstruct, other vehicles using the parking place, or the free flow of traffic circulating within the parking place, and the entrances to and exits from the parking place.
- 3.09 No Person in Charge of a vehicle shall cause or permit it to wait in a Parking Place for longer than the stay permitted as specified in column 6 of Schedule 2 at any one time, notwithstanding the fact that any appropriate payment has been made.
- 3.10 Any Person in Charge of a vehicle left in a Parking Place during the Charging Period shall pay the relevant Parking Charge unless a Permit authorised for use in Column 8 of Schedule 2 for that Parking Place and class of vehicle has been purchased and is being displayed in the Relevant Position.
- 3.11 Any Person in Charge of a vehicle left in a Parking Place during the Charging Period shall ensure that the Pay and Display Ticket, or Voucher, is displayed in the Relevant Position.

- The Person in Charge of a vehicle shall not permit that vehicle to wait in a parking place unless 3.12 the vehicle is licensed in pursuance of the provisions of the Vehicle Excise and Registration Act 1994 and unless there is in relation to the use of the vehicle by the Person in Charge such a policy of insurance as complies with the requirements of Part VI of the Road Traffic Act 1988. The Person in Charge of a vehicle using a Parking Place shall stop the engine as soon as the 3.13 vehicle is in position in the Parking Place and shall not start the engine again except when about to change the position of the vehicle in or to depart from the Parking Place. No person shall use a vehicle while it is in a Parking Place in connection with the sale of any 3.14 article to persons in or near the parking place or in connection with the selling or offering for hire their skill or services unless previously authorised in writing by the Council. No person shall use any part of a Parking Place, or any vehicle left in a parking place unless 3.15 previously authorised in writing by the Council for sleeping, camping, cooking, or any form of human habitation. (1)for the purpose of servicing or washing any vehicle or part thereof other than is (2)reasonably necessary to enable that vehicle to depart from the parking place; or for the purpose of Driver instruction. (3)Where in a Parking Place signs are erected, or surface markings are laid for the purpose of 3.16 indicating the entrance to or exit from the parking place (1)indicating that a vehicle using the parking place shall proceed in a specified direction (2)with the parking place indicating the maximum speed that a vehicle using the parking place shall proceed (3)with the parking place No person shall drive or cause any vehicle to be driven 3.17 so that it enters the parking place otherwise than by the entrance or leaves parking (1)place otherwise than by an exit so indicated. in a direction other than so specified. (2)in a speed greater other than so specified. (3)No person in a Parking Place shall use any threatening, abusive, or insulting language 3.18 gesture or conduct with intent to put any person in fear. No Person in Charge of a vehicle shall within any Parking Place, commit any act, which if 3.19 committed on a public highway, would constitute an offence under any statute, law, or other legislation in force in England. The Person in Charge of a vehicle while it is waiting in a Parking Place shall not carry out or 3.20 permit to be carried out any work of cleaning, maintenance, or repair to the vehicle except such as may be necessary to enable the vehicle to be moved from the Parking Place, unless authorised in writing to do so, by the Council. In any Parking Place no person shall 3.21
 - many randing rade ne person share
 - (1) erect or cause or permit to be erected any tent, booth, stand, building or other structure without written consent of the Council; or
 - (2) cause or permit any fire to be lit.
 - 3.22 No person shall except with the permission of a person authorised by the Council in that behalf drive or permit any vehicle in a Parking Place for any other purpose than the purpose of leaving

that vehicle in a Parking Place in accordance with the provisions of this Order or for departing from the parking place.

4 Specified Charges for Parking

- 4.01 In the case of a Pay and Display Ticket, the Parking Charge shall be paid immediately after parking in a Parking Place by use of a Ticket Machine.
- Where the provision for payment has been made by way of an Electronic Payment, this method of payment may be used as an alternative to a Pay and Display Ticket as detailed in paragraph 4.01 above, where available. As with a Pay and Display Ticket, payment of the Parking Charge in accordance with the scale of charges must be made immediately upon arrival and parking the vehicle.
- 4.03 No person shall cause or permit any vehicle to be parked during the Charging Period in a Parking Place after the Expiry Time of the relevant Pay and Display Ticket, Electronic Payment, or Voucher for that vehicle.
- 4.04 If at any time while a vehicle is parked in a Parking Place and no valid Pay and Display Ticket, or valid Voucher, is displayed on that vehicle in the Relevant Position and in accordance with the provisions of this order, it shall be deemed that the charge has not been paid.
- 4.05 Where an Electronic Permit has been issued it remains the responsibility of the applicant to provide the correct details for the Permit.
- 4.06 The Council may from time to time determine not to collect a charge and / or charges at a Parking Place on a temporary basis and information relating to a change in the collection of a charge and / or charges would be indicated on the signage nearest to the Ticket Machine. All other terms of this order must still be complied with.
- 4.07 If at the time when a vehicle is parked during the Charging Period in a Pay and Display Parking Place and the nearest Ticket machine in that Parking Place is out of order, then a Pay and Display Ticket shall be obtained from another Ticket Machine within the same Parking Place (where provided) or as directed in the Parking Place. If a Pay and Display Ticket cannot be obtained from the Ticket Machine(s) and where there is no provision made for Electronic Payment for that Parking Place then the Council must be informed via a Service Request, using the contact numbers displayed on the information signs within the Parking Place before the vehicle is left in the Parking Place. At the time of the Service Request, the caller should disclose their full name, contact details, the make and model of their vehicle, their vehicle registration number, car park location and details of the problem encountered. Details of the incident will then be logged and may be referred to as mitigation in circumstances where a Penalty Charge Notice is issued for failing to Pay & Display.

4.08 During the Charging Period if either

- (1) all the Ticket Machines at that Parking Place carry notices placed upon them by authority of the Council indicating that they are out of order; or
- (2) when there are no Ticket Machines at that Parking place

and there is no provision made for Electronic Payment for that Parking Place the Person in Charge of leaving the vehicle shall be exempt from payment of the charges specified in Schedule 2.

- 4.09 No daily charge or part thereof shall be payable in respect of
 - (1) a vehicle parked in a Pay and Display Parking Place which displays in the relevant position a valid Disabled Person's Badge provided that the vehicle immediately before or after the act of parking has been used or is about to be used by the person(s) in respect of whom the Disabled Person's Badge is issued.
 - (2) a Motorcycle parked in a motorcycle bay.
- 4.10 The Person in Charge of any vehicle using a Parking Place shall be exempt from the provisions of Articles 4.01, 4.02, 4.03, and 4.04 if the person has a valid Permit that is displayed in the Relevant Position or is a valid Electronic Permit.

For the purposes of 4.10 above a Permit shall be valid if

- (1) It is for the vehicle parked.
- (2) its use is allowed for the Parking Place in column 8 of Schedule 2.
- (3) if issued in paper format (rather than Electronic) it is displayed in the relevant position.
- (4) the Expiry Date for that Permit has not occurred; all other relevant conditions of this Order are complied with; and
- (5) the Person in Charge meets all the criteria to be issued with the relevant Permit.
- 4.11 Police, Fire, and Ambulance vehicles shall be exempt from the provisions of Articles 4.01, 4.02 and 4.03 whilst carrying out their official duties.
- 4.12 Pay and Display Ticket purchased are not transferable between vehicles and/or Parking Places (unless specified). Where a Pay and Display Ticket indicates a vehicle registration number and/or Parking Place the details indicated upon any such Pay and Display Ticket shall be regarded as conclusive evidence as to the vehicle and/or Parking Place for which the Ticket was purchased.
- 4.13 The holder of an annual Season Ticket shall on surrendering the Season Ticket be entitled to a refund based upon the number of complete months remaining un-expired from the beginning of the calendar month following the date which the Council receives the surrendered Season Ticket. The refund will be one twelfth of the annual rate for each un-expired calendar month less an administration fee.
- 4.14 The Council have the right to withdraw any Permit issued if deemed appropriate.

5 Contravention and Penalty Charge

- If a vehicle is parked in a Parking Place without complying with the requirements of this Order a contravention shall have occurred, and a Penalty Charge shall be payable. A Civil Enforcement Officer in accordance with the requirements of the 2004 Act or any subsequent applicable legislation may then issue a Penalty Charge Notice showing the information required by the 2004 Act.
- 5.02 A Penalty Charge Notice attached to a vehicle shall not be removed or interfered with except by or under the authority of:
 - (1) the Owner or Person in Charge of the vehicle.
 - (2) the Council for the Parking Place in which the vehicle in question was found.
- 5.03 The Penalty Charge shall be paid in accordance with the instructions contained on the Penalty Charge Notice.

- 5.04 The particulars given in the Penalty Charge Notice attached to a vehicle or sent by post in accordance with this Order shall be treated as evidence in any proceedings relating to failure to pay such Penalty Charge.
- 5.05 Enforcement of the provisions of this order shall be at all times.

6 Relocation, Removal and Disposal of Vehicles

- If a vehicle is left in the parking place in a position other than in accordance with provisions of Section 2, a person authorised by the Council may alter or cause to be altered the position of the vehicle so that its position is in accordance with the said provisions.
- 6.02 If a vehicle is left in the parking place in contravention of any of the provisions of this Order a person authorised by the Council may remove the vehicle from that parking place or arrange for such removal.
- For the purpose of meeting the requirements of an emergency a person authorised by the Council or police constable in uniform may alter or cause to be altered the position of a vehicle in a parking place or remove or arrange for the removal of a vehicle from a parking place.
- Any person altering, or causing the alteration of the position of a vehicle by virtue of Article 6.01 or removing or causing the removal of a vehicle by virtue of Articles 6.02 or 6.03 may do so by towing or driving the vehicle or such other manner as they may think reasonably necessary to enable the position of the vehicle to be altered or the vehicle to be removed and shall make such arrangements as may be reasonably necessary for the safe custody of the vehicle.
- 6.05 The Council may sell or otherwise dispose of, in accordance with current regulation, a vehicle, which has been, or could at any time be, removed from a parking space if the vehicle appears to have been abandoned.

7 Suspension of a Parking Place

- The Council may by notice suspend the use of a parking place or part thereof whenever it considers such suspension reasonably necessary for the purpose of facilitating the movement of traffic or promoting its safety, any building operation, demolition or excavation in or adjacent to the parking place or for the maintenance, improvement or reconstruction of the parking place or the laying, erection, alteration, removal or repair in or adjacent to the parking place of any sewer or any main pipe or apparatus for the supply of gas, water or electricity or of any telegraphic line or traffic sign or line, or for the exercise of any of the Council's powers or duties, any may also by notice suspend for such periods as it may specify all or any of the charges specified in this Order, and the Person in Charge of a vehicle shall not use the Parking Place when such Parking Place has been so suspended by the Council.
- 7.02 The Council may also suspend a Parking Place at any time to prevent overnight parking, antisocial behaviour and to facilitate events.

8 <u>Liability and Validity</u>

- 8.01 The Council accepts no liability for injury to the public or the loss or damage to vehicle or other property left in the Parking Place to which this Order applies save for that arising from the negligence of the Council.
- 8.02 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.

THE SCHEDULES

SCHEDULE 1

"PARKING PLACE"

Ref:	Name of Car Park	Description
1.	Garden Street, Grimsby	Land bounded on the north by property, on the west by Garden Street and on the south and east by Abbey Walk.
		As shown shaded red on location drawing TR01/04/22.

SCHEDULE 2

"SCHEDULE OF PARKING PLACE, TARIFF, TIMES AND CHARGES OF USE UNDER THIS ORDER"

ASSES OF VEHICLE 3	Wholly within one of the varied as Wholly within one of the varied by lindusive. Wholly within one of the varied by lindusive. Wholly within one of the varied by lindusive. Parking Bays indicated by lindusive. Surface markings and clear of the driveways, entrances and exits. Wholly within one of the wonday to Sunday Monday to Sunday Wholly within one of the wonday to Sunday Monday to Sunday Monda
CLASSES OF VEHICLE POSITION IN WHIC	Motor Vehicles licensed as private or private or private or provending 2.5 parking Bays indications in weight and or 2 clear of the driveway metres in height, solo entrances and exits. Person's Vehicles
1 CL NAME OF PARKING PLACE	Garden Street, veh ton mei mei mei mof mof mof mei mei mof mei

SCHEDULE 2.1

"Season Tickets"

Annual General Use Season Ticket

£670.00

SCHEDULE 2.2

"Council Permits (includes SMART Park permits and other partnership employee parking permits)"

Charges for Council permits will be determined at the time of application to the Authority.

THE COMMON SEAL OF THE NORTH EAST LINCOLNSHIRE BOROUGH COUNCIL

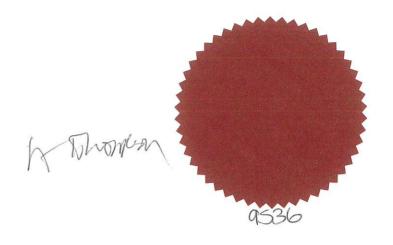
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20th day of poil

2022

in the presence of

Authorised Officer



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