

Rother District Council

Report to	-	Cabinet
Date	-	4 November 2019
Report of the	-	Executive Director
Subject	-	District of Rother (Off-Street) Parking Places Order 2019

Recommendation to COUNCIL: That:

- 1) the proposed District of Rother (Off-Street) Parking Places Order 2019 at Appendix A be approved and adopted; and
 - 2) Members' views be sought on awarding 'Disabled Person's Badge' holders free parking for the first three hours of any one day as part of the District of Rother (Off-Street) Parking Places Order 2019.
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Head of Service: Joe Powell

Lead Cabinet Member: Councillor Mrs Earl-Williams

Introduction

1. The Council currently operates its designated car parks under the District of Rother (Off Street) Parking Places Order 1983 (PPO) – a copy of which can be found on the website at the following link: <http://www.rother.gov.uk/CHttpHandler.ashx?id=6016&p=0>
2. A PPO provides a framework under which the Council can manage the car parks under its ownership and enforce parking conditions to ensure proper use. The current PPO has been in use since 1983 and despite a number of small variations has not been significantly updated since its inception.
3. At the Cabinet on the 3 December 2018 (Minute CB18/45 refers) the Council recommended a number of changes that could be achieved by introducing a new PPO. Members resolved that officers draft and consult on a new District of Rother Parking Places Order (Off Street) to then inform a new PPO.
4. The overall objective of the new PPO being proposed is to improve the ability of the Council to manage car parks effectively and better meet the cost of maintenance and enforcement. There is also a desire to provide greater controls to the Council within 'amenity open space parking areas' and certain rural car parks which are not named in the current 1983 Order and, therefore, are largely unenforceable. The following main changes are proposed within the new PPO, as set out at Appendix A:
 - To allow visitors to legitimately park their recreational vehicles (e.g. motorhomes) during daytime hours in allocated car parks.
 - To support the prevention of vehicles parking over an extended period of time by reducing the maximum 'waiting' period in allocated car parks from 24 hours to 23 hours.

- To remove car parks which have been devolved to Parish Councils from the 1983 PPO.
- To vary the payment methods available within the car parks and online.
- To include a number of parking areas currently designated as 'amenity open space parking areas'.
- To include a number of car parks in rural areas which are not currently included.

Public Consultation

5. The consultation on the proposed PPO started on 17 May 2019 and ended on 26 July 2019; details of the consultation process can be found on the website at the following link: <http://www.rother.gov.uk/carparks2019>
6. The consultation drew the attention of consultees to the two main changes proposed:
 - a. All car parks and parking areas under Rother District Council ownership will be brought under the new Parking Places Order.
 - b. Most of the car parks and parking areas will have the maximum waiting period changed from 24 hours to 23 hours.
7. The rate at which car park charging is set in respective car parks did not form part of the consultation. However, it was made clear to consultees that the proposed PPO would extend the powers to introduce charging to those amenity car parks and certain rural car parks that are presently free to users.
8. We invited the following groups and individuals to respond to the consultation using a variety of communication channels:
 - a) Businesses, organisations representing groups of businesses, and local community groups.
 - b) East Sussex County Council.
 - c) Car park users and residents, including MyAlerts e-mail to 16,384 households.
 - d) Camper van/motor home owners.
 - e) Parish and Town Councils.
 - f) Groups and organisations that represent or work with people who may have difficulties accessing services, for example disabled residents.
 - g) Media release.
 - h) Social media.
 - i) The Council website.
 - j) Laminated posters.

Results of consultation

9. The executive summary of the consultation results is attached to this report at Appendix B. A copy of the full consultation results, including all responses, has been placed in the Members' Room. In summary:
 - we exceeded our targeted participation rate by receiving 302 responses;
 - 65% of respondents agreed to some extent with the proposal to include all parking places in the order; and
 - 71% of respondents agreed to some extent with the proposal to reduce the 'waiting time' to 23 hours for all car parks and parking area.

10. As a consequence of the consultation, Members are requested to consider two further changes. These being:
- Inclusion of a vehicle electric charging clause to enable the Council to introduce electric charging points if it chooses to in the future.
 - For Members to consider awarding 'Disabled Person's Badge' holders free parking for the first three hours of any one day in all 46 chargeable parking bays in the district, bringing us into line with neighbouring local authorities. Rother District Council currently charge for disabled parking spaces and this proposal would lose the Council £50,000 per annum. Therefore Members' views are sought.

Conclusion

11. The new PPO being proposed supports the Council in achieving its objectives by improving the ability of the Council to manage Council owned car parks effectively and better meet the cost of maintenance and enforcement. It also provides greater controls to the Council within 'amenity open space parking areas' and certain rural car parks which are not named in the current 1983 Order and, therefore, are not subject to regulation.
12. The majority of respondents support the main proposals within the new PPO.

Recommendation

13. It is recommended that the proposed PPO 2019 at Appendix A be approved and adopted.

Malcolm Johnston
Executive Director

Risk Assessment Statement

There is a risk that the introduction of civil parking enforcement by East Sussex County Council in 2020 will increase demand for off-street parking in the District of Rother. The new PPO being proposed will allow the Council to manage this increased demand more effectively.

It is also important that the Council has to meet the cost of maintenance and enforcement of its car parks. There is a risk that if the new PPO being proposed is not adopted the Council will not be able to meet its costs or properly control parking within the 'amenity open space parking areas' and certain rural car parks which are not named in the current 1983 PPO.

Awarding Blue Badge Holders free parking for the first three hours will result in a loss in income to the Council. This is difficult to measure accurately but based on the income of the 46 chargeable disabled parking bays in the district, and assuming a 50% occupancy rate, the loss in income is estimated to be in the region of £50,000 per annum.

**ROTHER DISTRICT COUNCIL
THE DISTRICT OF ROTHER (OFF-STREET)
PARKING PLACES ORDER 2019**

The District Council of Rother (hereinafter referred to as “the Council”) in exercise of their powers under Section 32, 33, 35, and 39 of the Road Traffic Regulation Act 1984, (as amended) (the 1984 Act) and Part IV of schedule 9 to the 1984 Act and of all other enabling powers, with the consent of the East Sussex County Council in accordance with section 39(3) of the 1984 Act and after consulting the Chief Officer of Police in accordance with Part III of Schedule 9 to the 1984 Act hereby makes the following Order.

PART I – OPERATIVE AND GENERAL PROVISIONS

1. COMMENCEMENT AND CITATION

This Order shall come into operation on the XXXXXXXXXX and may be cited as The District of Rother (Off-Street) Parking Places Order 2019.

2. REVOCATION OF PREVIOUS ORDERS

The Orders set out in the First Schedule to this Order are hereby revoked.

3. DEFINITIONS

(1) In this Order, except where the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them:-

- a. “Council” means the Council of the District of Rother;
- b. “driver”, in relation to a vehicle waiting in the parking place, means the person driving the vehicle at the time it was left in the parking place; it shall be presumed that the Driver was the person who was the registered keeper of the Vehicle at that time;
- c. “owner”, in relation to a vehicle means the person by whom such vehicle is kept and used and for the purpose of determining in the course of any proceedings who was the Owner of the Vehicle at any time it shall be presumed that the Owner was the person who was the registered keeper of the vehicle at that time.;
- d. “parking place” means the area of land specified by name in column 1 of the Schedule to this Order provided by the Council under Section 32(1) of the Act of 1984 for use as a parking place;
- e. “parking enforcement officer” means a person authorised by or on behalf of the Council to supervise the parking place;
- f. “prescribed hours” means the period set out in column 8 of the Schedule to this Order and which refers to the hours of the day in which a charge shall be paid;
- g. “ticket machine” means an apparatus or device of a type and design having been specially or generally approved by the Secretary of State for Transport, or his predecessors, designed to issue parking tickets indicating the payment of a charge and the date and time at which the charge was paid;
- h. “payment app” means any contracted app displayed within the car park for payment of car parking charge purposes only;
- i. “disabled person’s badge” has, in relation to Article 23, the same meaning as in the Disabled Persons (Badges for Motor Vehicles) Regulations 1975;

- j. “relevant position”, in relation to Article 23, means:-
 - (i) In the case of a vehicle fitted with a transparent front windscreen, the badge is exhibited thereon with the obverse side facing forward on the nearside and immediately behind the windscreen;
 - (ii) In the case of a vehicle not fitted with a front transparent windscreen the badge is exhibited in a conspicuous position on the front or nearside of the vehicle.

4. **INTERPRETATION**

- 4.1 The Interpretation Act 1978 shall apply *for* the interpretation of this Order as it applies for the interpretation of an Act of Parliament.
- 4.2 The paragraph headings in this Order are for information only.
- 4.3 Any reference in this Order to a numbered Article *is* a reference to the *Article* bearing that number in this Order and any reference in this Order to the numbered Schedule is a reference to the Schedule bearing that number in this Order.
- 4.4 Reference to any statute or statutory provision includes a reference to:
 - 4.4.1 That statute or statutory provision as from time to time amended extended re-enacted or consolidated whether before or after the date of this Order; and
 - 4.4.2 All statutory instruments or order made pursuant to it.

PART II – USE OF LAND AND PARKING PLACES

- 5. Each of the areas of land specified in column 1 of the Second Schedule to this Order may be used, subject to the following provisions of this Order, as parking places for such classes of vehicles, in such positions and on such days and during such hours and on payment of such charges, if any, as are specified in relation to that area in the said Schedule, **SAVE THAT** nothing in this Article 5 shall restrict the power of the Council to suspend, on a temporary basis, the use of a Parking Place or part thereof from such use by indication on site where such suspension is considered reasonably necessary. Furthermore, the use of any such parking place is permitted on the clear understanding that the Council and their representatives accept no liability for any damage to vehicles or other property or injuries to persons arising in any way whatsoever directly or indirectly from the use of the car park or for the safe custody of any vehicles or property left thereon.
- 6. **Class and Position of Vehicles**
Where in column 6 of the Second Schedule to this Order a parking place is described as available for vehicles of a specified class or in a specified position, the driver of a vehicle shall not permit it to wait in that parking place:-
 - (a) Unless it is of the specified class; or
 - (b) In a position other than that specified.
- 7. **Manner of Parking of Trailers**
The driver of a vehicle drawing a trailer shall not permit the vehicle or trailer to wait in a parking place unless they have disconnected the trailer, and for the purposes of this Order the vehicle and trailer shall be deemed to be separate vehicles and will be required to comply with the conditions of the car park for

both. The said driver shall be deemed to be the driver of each of the said vehicles.

8. Overlapping Bays

Should the body work of any vehicle overlap into an adjoining bay, or bays, the driver will be required to pay for the adjoining bay or bays.

9. Overextending into thoroughfare

Any vehicle that is parked that extends beyond a marked bay in excess of 2ft / 61cm and obstructs the throughways will be subject to Standard Charge Notice to Pay.

10. Use of Vehicles in Parking Places

No person shall, without the prior consent of the Council, use a vehicle while it is in a parking place in connection with the sale of any goods to any persons in or near the parking place or in connection with the selling or offering for hire of his skills or services.

11. No person shall, without the prior consent of the Council, use any part of the parking place or any vehicle left in the parking place:-

- (a) For sleeping or camping purposes;
- (b) For cooking and eating purposes; or
- (c) For the purpose of repairing, servicing or washing any vehicle or part thereof other than is reasonably necessary to enable that vehicle to depart from the parking place.

12. The driver of a motor vehicle using the parking place shall not sound any horn or other similar instrument except when about to change the position of the vehicle in or to depart from the parking place, or to avoid an accident.

13. No person shall, except with the permission of any person duly authorised in that behalf by the Council, drive any vehicle in the parking place other than for the purpose of leaving that vehicle in the parking place in accordance with the provisions of this Order or for the purposes of departing from the parking place.

14. No person shall in the parking place wantonly shout or otherwise make any loud noise to the disturbance or annoyance of users of the parking place or residents of premises in the neighbourhood.

15. No person shall in the parking place use any threatening, abusive or insulting language, gesture or conduct with the intent to put any person in fear or so as to occasion a breach of the peace or whereby a breach of the peace is likely to be occasioned.

16. A driver of a vehicle shall not use the parking place:-

- (a) So as unreasonably to prevent access to any premises adjoining the parking place or so as to be a nuisance; or
- (b) When the Council shall have closed the parking place or a part thereof or shall have closed the parking place or a part thereof to a specified class or classes of vehicles, and exhibited notice of such closing on or near the parking place.

17. The driver of a motor vehicle using the parking place shall stop the engine as soon as the vehicle is in position in the parking place, and shall not start the

engine except when about to change the position of the vehicle in or to depart from the parking place.

18. (1) The driver of a vehicle shall not permit it to wait in the parking place for longer than the maximum period permitted for waiting specified in column 5 of the Second Schedule to this Order in relation to that parking place.

(2) When a vehicle has left the parking place after waiting therein the driver thereof shall not, after it's leaving, permit it to wait again in the same parking place within such period, if any, as is specified in column 9 of the Second Schedule to this Order in relation to that parking place.
19. In respect of those parking places for which, in column 7 of the Second Schedule to this Order, it is indicated that a standard charge applies, the charge for a vehicle left in such a parking place for any period during the prescribed hours shall be subject to Articles 24 and 26 below and the charge listed in the Second Schedule to this Order.
20. In the case of a vehicle in respect of which the standard charge indicated in Article 19 above may have been incurred, it shall be the duty of a parking enforcement officer to attach to the vehicle in a conspicuous position a notice which shall include the following particulars:-
 - (a) the registration mark of the vehicle or, where the vehicle is being used under a trade licence, the number of the trade plate carried by the vehicle;
 - (b) the time at which he noticed that the charge had been incurred;
 - (c) a statement that the standard charge of the sum specified in Article 16 above is required to be paid;
 - (d) the manner in which, and the time within which, the standard charge should be paid; and
 - (e) a statement that it is an offence under this Order and Section 35A of the 1984 Act to contravene or not to comply with any provision of this Order;
21. Where a notice is not able to be attached to the vehicle the Council or their agent will obtain keeper details of the vehicle and provide details of the enforcement by post within 35 days of the contravention. The notice will include the details as laid out in Article 20(a), (b), (c), (d) and (e).
22. Where a notice has been attached to a vehicle in accordance with the provisions of Article 20 of this Order, no person not being a parking enforcement officer or some other person duly authorised by the Council shall remove the notice from the vehicle until the vehicle is removed from the parking place.
23. The driver of a vehicle in respect of which the standard charge has been incurred shall either:
 - (a) pay the standard charge to the Council either by cheque, online payment, debit or credit card payment or postal order, which shall be delivered or sent by post so as to reach the Offices of the Council not later than 10am on the seventh day following the day on which the standard charge was incurred or in cash in person at the said Offices not later than as aforesaid. Provided that, if the said seventh day falls upon a day on which the said Department is closed, the period within which payment of the standard

charge shall be made to the Council shall be extended until 10am on the next full day on which the said Office is open.

- (b) where the standard charge notice has been issued by an agent of the Council the driver will be required to comply with their payment methods laid out in the notice.

24. (1) The driver of a vehicle left in a parking place shall be exempt from payment of the standard charge referred to in Article 19 above:-

- (a) in respect of any period for which a valid ticket has been purchased for that parking place provided that such parking ticket is exhibited on the vehicle in accordance with the provisions of this Article: or
- (b) in respect of any period for which a valid electronic ticket has been purchased for that parking place provided that such electronic ticket has been purchased and recorded on the appointed system and the registration details and payment has been confirmed: or
- (c) in respect of any period for which the driver has registered to pay for parking at a ticket machine within the car park: or
- (d) in respect of those parking places where parking tickets are not available, if the driver removes the said vehicle from the parking place before the expiration of the maximum period of waiting specified in column 6 of the Second Schedule to this Order.

(2) For the purpose of this Order a parking ticket shall be:-

- (a) a ticket purchased by the insertion of the appropriate coin or coins from a ticket machine at a parking place at the price and for the period specified in relation to that parking place in column 7 of the Second Schedule to this Order;
- (b) a ticket issued by a ticket machine within the car park for the registration of the vehicle reserving payment by credit or debit card; or
- (c) a season ticket purchased from the Council at a charge ascertained by reference to the Scale of Charges set out in column 7 to the Second Schedule to this Order, such tickets being valid for all the parking places in the said Schedule; or
- (d) an electronic ticket purchased and paid for online via the application displayed within the car park for the location
- (e) any other ticket otherwise supplied by or purchased from any person duly authorised by the Council for such purpose.

(3) A parking ticket shall be valid for a parking place if and so long as the following conditions are satisfied:-

- (a) In the case of a parking ticket having an adhesive portion the parking ticket is exhibited on the vehicle:-
 - (i) in the case of a vehicle which is fitted with a transparent front windscreen, by sticking the parking ticket or tickets to the inside surface of the windscreen on the offside so that it is facing forwards and can be easily seen from in front of the vehicle;
 - (ii) in the case of a vehicle which is not fitted with a transparent front windscreen, by sticking the parking ticket or tickets on the front of the vehicle so that it is facing forwards and can easily be seen from in front of the vehicle.

- (b) In the case of the parking ticket not having an adhesive portion the parking ticket is exhibited on the vehicle:-
 - (i) In the case of a vehicle which is fitted with a transparent front windscreen, by exhibiting the parking ticket or tickets in the inside of the vehicle facing upwards, in such a position that it can easily be seen through the windscreen from in front of the vehicle;
 - (ii) In the case of a vehicle which is not fitted with a transparent front windscreen, by securing the parking ticket or tickets to the front of the vehicle so that it can easily be seen from in front of the vehicle.
- (c) In the case where an electronic ticket has been purchased online for the location where the vehicle is parked and the driver has received confirmation of payment and retained said confirmation for the duration of the stay;
- (d) In the case where a driver has registered to pay for parking at the ticket machine and the issued ticket showing the registration number of the vehicle parked is displayed as per 3 (a) (i) (ii) or 3 (b) (i) (ii);
- (e) The period indicated on the parking ticket calculated from the date and time of purchase indicated in the ticket has not expired.

25. When a parking ticket has been exhibited on a vehicle in accordance with the provisions of Article 21 of this Order, no person shall remove the parking ticket from the vehicle until the vehicle is removed from the parking place.

26. If at the time when a vehicle is left in a parking place during the prescribed hours there is no ticket machine at that parking place, or all the ticket machines at that parking place carry notices placed upon them by a person duly authorised by the Council indicating that they are out of order, the driver of that vehicle shall be exempt from payment of the charge referred to in Article 16 above except when a vehicle is left in a parking place for longer than the maximum period specified in column 6 of the Second Schedule to this Order.

27. Subject to the proviso hereto, when a vehicle is left in the parking place in contravention of any of the provisions of Article 6 and Article 18 of this Order, a person authorised in that behalf by the Council may remove the vehicle or arrange for it to be removed from the parking place.

Provided that when a vehicle is waiting in the parking place in contravention of the provision of Article 6(b) of this Order, a person authorised in that behalf 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.

28. No person shall use the parking place as a means of passage proceeding from one road to another.

29. Where in the parking place signs are erected or surface markings are laid for the purpose of:-

- (a) indicating the entrance to or exit from the parking place; or
- (b) indicating that a vehicle using the parking place shall proceed in a specified direction within the parking place;

No person shall drive or cause or permit to be driven any vehicle:-

- (i) So that it enters the parking place otherwise than by an entrance, or leave the parking place otherwise than by an exit, so indicated; or
- (ii) In a direction other than that specified, as the case may be.

30. In the parking place, no person shall:-

- (a) Erect or cause or permit to be erected any tent, booth, stand, building or other structure without the written consent of the Council;
- (b) light or cause or permit to be lit any fire.

31. Any person removing or altering the position of a vehicle by virtue of Article 28 of this Order may do so by towing or driving the vehicle or in such other manner as they may think necessary and may take such measures in relation to the vehicle as they may think necessary to enable them to remove it or alter its position, as the case may be.

32. When a person authorised by the Council removes or makes arrangements for the removal of a vehicle from the parking place by virtue of Article 28 of this Order, they shall make such arrangement as may be reasonably necessary for the safe custody of the vehicle.

33. A vehicle, which displays a Disabled Person's Badge and special parking disc (clock) set at time of arrival, which is left in a bay which is designated for use as a disabled person's parking space, shall be exempt for the first three hours of any day from payment of a charge imposed by the provisions of this Order. This exemption does not apply in any other area of the Parking Place. The Driver of a vehicle shall not permit it to wait in any of the bays marked as being for the use by 'disabled badge holders only' unless it is a vehicle which is clearly and continuously displaying a valid Disabled Person's Badge, positioned either on the dashboard or in the front windscreen of the vehicle, so that the serial number and expiry date of the badge can be clearly read from outside the vehicle. Additionally, a special parking disc (clock) must also be displayed next to the badge, set at a time of arrival (3 hours free parking).

34. In respect of electric vehicles in the parking place:-

- (a) Any person utilising an electric vehicle charging point situated within any car park within this order MUST pay the appropriate parking charge whilst the vehicle is being re-charged and occupying a bay reserved for re-charging purposes.
- (b) Any electric vehicle in a bay reserved for re-charging that is not displaying a valid parking ticket will be subject to a Standard Charge under Article 19 of this order irrespective of the charging status of the vehicle
- (c) Once an electric vehicle has been charged the vehicle must be moved to any another bay without a re-charger to make the charging facility available to other electric vehicle users
- (d) Parking bays with an electric vehicle charger are for use by electric vehicles only for the purposes of re-charging.
- (e) No electric vehicle may park in a bay with an electric vehicle charging point unless it is being re-charged.

GIVEN under the COMMON SEAL of)
the ROTHER DISTRICT COUNCIL)
this XXXXXXXXXXXXX in the)
presence of:)

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FIRST SCHEDULE – REVOCATION OF PRECEDING ORDERS

1. The District of Rother (Borough of Bexhill (Off-Street) Parking Places Order 1970) (Variation) Order 1979.
2. The District of Rother (Borough of Bexhill (Off-Street) Parking Places Order 1970) (Variation) Order 1977.
3. The Borough of Bexhill (Off-Street) Parking Places Order 1970.
4. The Borough of Bexhill (Sidley Car Park) Order 1967.
5. The Borough of Bexhill (Little Common and The Gorses Car Park) Order 1973.
6. The District of Rother (Rye) (Off-Street Parking Places) Order 1977 (Variation) Order 1979.
7. The District of Rother (Rye) (Off-Street Parking Places) Order 1977.
8. The District of Rother (Rural District of Battle (Camber and Battle) (Parking Places) Order 1964) (Variation) Order 1977.
9. The Rural District of Battle (Camber and Battle) (Parking Places) Order 1964.
10. The Burwash (Off-Street Parking Place) Order 1971).
11. The Robertsbridge (Parking Place) Order 1963.
12. The Robertsbridge (Parking Place) (Supplemental) Order 1969.
13. The Ticehurst (Off-Street Parking Place) Order 1971.
14. The Battle (Mount Street Parking Place) Order 1972.
15. The Rye Harbour (Off-Street Parking Place) Order 1973.
16. The Catsfield (Off-Street Parking Place) Order 1973.
17. The District of Rother (Northiam) (Off-Street Parking Place) Order 1977.
18. The District of Rother (Off-Street) Parking Places Order 1983

SECOND SCHEDULE

THE USE OF THIS CAR PARK IS PERMITTED ON THE CLEAR UNDERSTANDING THAT THE COUNCIL AND THEIR REPRESENTATIVES ACCEPT NO LIABILITY FOR ANY DAMAGE TO VEHICLES OR OTHER PROPERTY OR INJURIES TO PERSONS ARISING IN ANY WAY WHATSOEVER DIRECTLY OR INDIRECTLY FROM THE USE OF THE CAR PARK OR FOR THE SAFE CUSTODY OF ANY VEHICLES OR PROPERTY LEFT THEREON.

WARNING: FAILURE TO COMPLY WITH THE REGULATIONS OF THIS ORDER IS A CRIMINAL OFFENCE (Section 35A of the 1984 Act)