

REPORT OF BUSINESS & PERFORMANCE MANAGER

SUBJECT: OFF-STREET PARKING ORDER

Members will be aware that Pembrokeshire County Council, under its statutory powers as the local Highway Authority, has been asked to preparing a new Off-Street Parking order for the Authority to replace the current order which was issued by Dyfed County Council in 1991.

Before the order can be confirmed it must be subject to a public consultation process and the responses to any comments must be approved by both this Authority and PCC.

Recommendation:

Members are requested to CONFIRM that Pembrokeshire County Council makes the new Off-Street Parking Order on behalf of this Authority.

(For further information, please contact Alan Hare, Business & Performance Manager on extension 4810)

THE PEMBROKESHIRE COUNTY COUNCIL

(PEMBROKESHIRE COAST NATIONAL PARK) (OFF-STREET PARKING PLACES) **ORDER 2014**

The Pembrokeshire County Council in exercise of its powers under Sections 33(4), 35(1) and Part III of Schedule 9 to the Road Traffic Regulation Act 1984 (“the Act”) as amended, 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, and following arrangements made with the Pembrokeshire Coast National Park Authority, hereby makes the following Order.

PART 1 – PRELIMINARY

Introduction

1. The Pembrokeshire County Council (“the Council”) is a Local Authority, as defined in Section 32 (4) of the Road Traffic Regulation Act 1984.
2. The Pembrokeshire Coast National Park Authority (“the NPA”) is the National Park Authority for those areas of the Pembrokeshire Coast National Park situated within Pembrokeshire.
3. The Council is empowered under the Act to provide off-street parking places or to make arrangements with any person for him to provide such a parking place and to make an Order to make provision as to those matters set out in Section 35 (1) of the Act of 1984.
4. The NPA is empowered under Section 12 (1) of the National Parks and Access to the Countryside Act 1949 to make arrangements for securing the provision for its area of parking places and means of access thereto and egress therefrom.
5. By virtue of Section 33(4)(b) of the Act of 1984 the Council may, on such terms as it thinks fit arrange with any person for him to provide an off-street parking place on any land of which he is the owner or in which he has an interest.
6. The Council and the NPA have agreed that the Council will assist the NPA in the management of its car parks and in particular the enforcement of parking restrictions and in order to facilitate this will introduce this off-street parking places order under the Act of 1984.

Citation and commencement

1. This Order shall come into operation on the **day of 2014** and may be cited as the Pembrokeshire County Council (Pembrokeshire Coast National Park) (Off-Street Parking Places) Order 2014.

Interpretation

2. In this Order, except where the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them:

“Buses & Coaches” means passenger carrying vehicles as defined in Section 117(1) of the Public Passenger Vehicles Act 1981;

“Bus stop” means any area of highway or Car park intended for the waiting of buses which is comprised within and indicated by road markings complying with either diagram 1025.1 or 1025.3 in Schedule 6 of the 2002 Regulations;

“Civil enforcement officer” or **“Parking Attendant”** means a person authorised by or on behalf of the Council to supervise parking places and enforce restrictions imposed by this Order and has the same meaning as in the 2004 Act;

“Charging hours” means the period as specified in the Schedule to this Order.

“the Council” means Pembrokeshire County Council and includes any duly authorised member of staff, any parking services contractors or authorised agent appointed by or acting on behalf of the Council for the purposes of any function under the provisions of this Order;

“Days and charging hours” means the days and any period specified in columns 5 & 6 of the Schedule to this Order in respect of which a charge is specified in column 7 of the Schedule to this Order;

“Disabled person’s badge” has the same meaning as in the Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000;

“Driver” 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;

“Expiry time” is the time indicated on the Pay & Display ticket and is the time by which the vehicle must leave a Parking Place;

“Hackney carriage” means a vehicle licensed under Section 38 of the Vehicle (Excise) Act 1971, for which a hackney carriage licence has been issued by the Council, standing or plying for hire;

“Immobilisation device” has the same meaning as in Section 104(9) of the Act of 1984;

“Light goods vehicle” means a motor vehicle which is constructed or adapted for use for the carriage of goods or burden of any description which does not exceed 7.5 tonne gross weight;

“Motor-cycle” has the same meaning as that in Section 136 of the Act of 1984;

“NPA” means the Pembrokeshire Coast National Park Authority and includes any duly authorised member of staff of that Authority.

“Owner” in relation to a vehicle, means the person by whom such vehicle is kept and used. In determining who was the owner at any time it shall be presumed that the owner was the person named in the vehicle registration document as the registered keeper of the vehicle or

the person who has the use of such vehicle in the course of their employment and who is entitled to use such vehicle as though they were the registered keeper thereof;

“**Parking disc**” has the same meaning as in the Local Authorities’ Traffic Orders (Exemptions for Disabled Persons) (Wales) Regulations 2000 which is capable of showing the quarter hour period during which a period of waiting has begun;

“**Parking place**” means an area of land designated in column 2 of the Schedule to this Order for the waiting of vehicles of specific classes for use as a Parking Place;

“**Parking permit**” means a permit purchased from the NPA to allow free parking with or without guarantee under the provisions of Part 3 of this Order;

“**Parking bay**” means any area of the Parking Place which is provided for the leaving of a vehicle and indicated by markings or signs;

“**Pay and display ticket**” means a ticket issued by a pay and display ticket machine relevant to the parking place in which a vehicle has been left;

“**Penalty charge**” means the charge set by the Council under Section 77 of Part 6 and Schedule 9 of the 2004 Act, which is to be paid to the Council following the issue of a Penalty Charge Notice and within the period notified on the pcn, from the date of issue of that Notice;

“**Penalty Charge Notice (pcn)**” means a notice issued by or served by a Civil Enforcement Officer pursuant to the provisions of the Road Traffic Regulation Act.

“**Permitted hours**” means the periods specified for each parking place during which waiting by vehicles of a specific class is permitted as specified in the Schedule to this Order;

“**Plans**” means the plans annexed to this order and numbered in accordance with column 1 of Schedule to this Order, which identify the Parking Places affected by this Order.

“**Relevant position**” means

a) in respect of a vehicle displaying a valid Disabled Persons Badge:-

(i) exhibited on the windscreen, dashboard or fascia of the vehicle or, where the vehicle does not have a windscreen, dashboard or fascia, in a conspicuous position on the vehicle so that the whole of the information on the front of the permit is clearly legible from outside the vehicle;

b) in respect of a vehicle displaying a Pay & Display ticket or permit:-

i) the ticket or permit is exhibited 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 side of the vehicle ; or

ii) in the case of a vehicle that is not fitted with a transparent windscreen, the ticket is exhibited on the front of the vehicle facing forwards and clearly visible;

“**Restricted hours**” means in relation to any restricted parking place, the hours during which parking is restricted as specified in the Schedule to this Order;

“**Taxi rank**” means an area of car park designated by this Order for the waiting of hackney carriages or taxis and which is indicated by road markings or signs;

“**The 2002 Regulations**” means the Traffic Signs Regulations & General Directions 2002;

“**The 2004 Act**” means the Traffic Management Act 2004;

“**The Act of 1984**” means the Road Traffic Regulation Act 1984;

“**Traffic signs**” means a sign of any size, colour or type, having the effect as though prescribed or authorized pursuant to Section 64 of the Act of 1984;

“**Trailer**” means any vehicle drawn by a motor vehicle;

“**Vehicle & motor vehicle**” means, subject to Section 20 of the Chronically Sick & Disabled Persons Act 1970, a mechanically propelled vehicle intended or adapted for use on the road;

4. 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 a Schedule is a reference to a Schedule incorporated into this Order.

5. Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, applied, consolidated, re-enacted by or as having effect by virtue of any subsequent enactment.

6. The Interpretation Act 1978 shall apply to the interpretation of this Order as it applies for the interpretation of an Act of Parliament and as if for the purposes of Section 21 of that Act this Order were an Act of Parliament and the Orders revoked by this Order were Acts of Parliament thereby repealed.

PART 2 – DESIGNATION & USE OF PARKING PLACES

Designation

7. Each area of land or buildings, as shown on the plans attached hereto and specified in Column 2 of the Schedule to this Order, may be used, subject to the provisions of this Order, as a Parking Place to leave vehicles, of such classes, in such positions, on such days, during such hours, for such periods and on payment of such charges as are specified in the Schedule to this Order. Provided that the use of the said Parking Place by the vehicles, the driver and any passengers and belongings or goods carried by such vehicles shall be entirely at the risk of the driver.

Class and position of vehicle

8. No person shall cause or permit a vehicle to park in a Parking Place unless it is of a class of vehicle specified in the Schedule to this order.

9. Where in the Schedule to this Order, a Parking Place or Parking Bay is described as available for a specified class of vehicles to be left in a specified location, no person shall permit a vehicle to park in that Parking Place or in any Parking Bay within the Parking Place unless:

- i) it is of the specified class,
- ii) it is parked within the Parking Bay markings, or
- iii) it is parked in the position so specified.

Disabled parking bays

10. No person shall cause or permit a vehicle to park in a parking place, specified in the Schedule to this Order, marked for disabled persons unless the vehicle displays in the relevant position a disabled person's badge and immediately before or immediately after the act of parking the vehicle has been or is about to be used by the person(s) in respect of whom the Disabled Persons Badge has been issued.

Taxi parking bays

11. No person shall cause or permit any vehicle other than a taxi to wait in a parking bay marked for taxis, during the period of operation.

12. No person shall cause or permit a taxi to wait on a taxi rank during the period of operation other than for the purpose of plying for hire.

Motor Cycle parking bays

13. No person shall cause or permit any vehicle other than a motor cycle to wait in a parking bay marked for motor cycles, during the period of operation.

Power to close or suspend Parking Places

14. Nothing in this Order shall prevent the Council or a body authorised by it in writing, by notice, sign or barrier displayed in a Parking Place:

- a) from closing a Parking Place or any part thereof for any period; and/or
- b) from setting aside or suspending a Parking Place or any part thereof on all days or on certain days or during certain parts of days for use only by particular vehicles or Organisations.

15. Any person suspending the use of a Parking Place or part thereof in accordance with the provisions of Article 14 shall thereupon place or cause to be placed in or adjacent to that

Parking Place or that part thereof a notice or traffic sign indicating that the use of that Parking Place or that part thereof is suspended and that the parking by vehicles is prohibited.

16. No person shall cause or permit a vehicle to be left in a Parking Place or any part thereof during such periods that the use of that Parking Place or that part thereof is suspended or during such period as there is in or adjacent thereto a notice or traffic sign placed by or on behalf of the NPA in pursuance of Article 14.

Sale of Goods

17. Save as provided in Articles 11 & 12, no person while in a Parking Place, without the prior consent of the Council or a body authorised by it in writing shall use any vehicle in connection with the sale or attempted sale of any article to any person in or near the Parking Place or offer for hire his or her skills or services and shall not use a vehicle while it is in the Parking Place or any part of the Parking place for such purpose or for the purpose of any exhibition and no vehicle shall be advertised for sale while it is standing in a parking Place.

Maximum Period of Stay

18. Where in the Schedule to this Order, a Parking Place is described as available on specified days, during specified hours or for a maximum period of stay, no person shall permit a vehicle to park in that Parking Place on any day, during such hours or for any period other or longer than those specified.

Period of No Return

19. Where in the Schedule to this Order a Parking Place is described as having a period within which a vehicle may not return, no person shall permit a vehicle to park in that Parking Place on any day, during such period.

Parked with engine running

20. The driver of a vehicle using a parking Place shall stop the engine as soon as the vehicle in a parking space and shall not start the engine or sound any horn or similar instrument except when about to change the position of the vehicle in or to depart from the Parking Place.

Parked causing an obstruction

21. The driver of a vehicle using a Parking Place shall not park the vehicle in such a manner or place where it causes an obstruction to any users of the parking Place.

Other provisions relating to the use of each Parking Place

22. No person shall use a Parking Place or any part of a Parking Place or any vehicle left in a Parking Place:

- a) For sleeping or camping purposes

b) For cooking purposes;

23. No vehicle carrying inflammable or dangerous substances which might cause damage by fire or explosion or which might endanger human life by toxic or other effects (other than in the fuel tank of the vehicle) shall be parked in any of the Parking Places except with the prior consent in writing of the Council or a body authorised by it in writing.

24. No person shall wash, clean or service any vehicle or any part thereof whilst it is at any Parking Place.

25. No person shall use a Parking Place, to the disturbance or annoyance of the users of the Parking Place or residents of premises in the neighbourhood, for the purposes of skateboarding, bicycle riding, ball games or similar activities.

26. The driver of a vehicle shall not permit that vehicle to wait in a Parking Place unless the vehicle is licensed in accordance with the provisions of the Vehicles (Excise) Act 1971 and unless there is in relation to the use of the vehicle by the driver such a policy of insurance as complies with the requirement of Part VI of the Road Traffic Act 1988.

27 (a) No person shall, except with the express permission of any person duly authorised in writing by the Council, drive any vehicle in any Parking Place other than for the purpose of leaving that vehicle in a Parking Place in accordance with the provisions of this Order, or for the purposes of departure from the Parking Place.

(b) No person shall use any Parking Place for any purpose other than such as may be permitted by this Order.

(c) No person shall allow a vehicle to occupy a designated Parking Bay for disabled people unless a valid disabled persons badge is displayed in addition to a valid parking ticket or permit.

28. No person shall use any Parking Place as a means of passage proceeding from one road to another.

29. No person shall in any Parking Place use any threatening abusive or insulting language gesture or conduct with 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.

30. No person shall in any Parking Place wantonly shout or otherwise make any loud noise.

31. Where in any Parking Place signs are erected or surface markings are laid for the purpose of:

(a) indicating the entrance 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, or

(c) indicating Parking Bays

No person shall (i) drive or cause or permit to be driven any vehicle so that it enters the Parking Place otherwise than by an entrance, or leaves the Parking Place otherwise than by an exit so indicated, or in a direction other than that specified as the case may be or (ii) park any vehicle otherwise than wholly within a Parking Bay.

32. In the Parking Place no person shall:

(a) erect or cause or permit to be erected any hut, booth tent, stand, building or other structure without the written consent of the NPA.

(b) light or cause or permit to be lit any fire.

33. When a vehicle has left a Parking Place after waiting therein the driver thereof shall not within one hour after its leaving permit it to wait again in that Parking Place, except as may be provided for in the Schedule to this Order.

34. When a parking ticket, parking permit or notice has been exhibited on a vehicle in a relevant position in accordance with the provisions of this Order, no person shall remove the parking ticket, parking permit or notice from the vehicle until the vehicle is removed from the Parking Place.

35. No person shall in any Parking Place knowingly exhibit on any vehicle any parking ticket or parking permit which has been defaced, altered, mutilated or added to or upon which the figures or particulars have become illegible, or which does not relate to the vehicle or that Parking Place or is no longer valid.

PART 3 – CHARGES FOR PARKING

Payment

36. Insofar as a vehicle is left in a parking place during the charging hours the driver thereof shall on leaving the vehicle pay the appropriate charge for that parking place as specified in column 7 of the Schedule to this Order or shall display a valid permit in the relevant position.

37. The charge referred to in article 36 shall be payable by the insertion of an appropriate coin, coins, credit or debit cards or parking device into the apparatus provided. Alternatively by any other method of payment including electronic that the Council or a body authorised by it deems appropriate for the payment of the charge.

38. The driver of a vehicle which displays in the relevant position a disabled persons badge and time disc and parks in a bay set aside for disabled users, shall be required to pay the appropriate charge in column 7 of the Schedule to this Order. The driver shall be allowed an additional one hours free parking over and above that time period purchased.

39. Any ticket issued on payment of the charge referred to in article 37 shall be attached in a conspicuous position to the vehicle in respect of which it was issued.

40. The owner of a vehicle may on application to the Council or a body authorised by it in writing purchase a season ticket in respect of that vehicle for such charge as shall be specified from time to time by the Council or a body authorised by it in writing and that season ticket shall be valid in such parking places as are specified thereon, on the conditions subject to which it is issued and during the period for which it is issued.

41. The Council or a body authorised by it in writing may issue a permit to an owner of a vehicle and that permit shall be valid in such parking places as are specified thereon or in the conditions subject to which it is issued, and during the period for which it is issued.

42. The driver of a vehicle who displays a permit issued by the Council or a body authorised by it in writing shall be entitled, so long as the Permit remains valid, to park without further payment in any parking place in respect of which that Permit has been issued but otherwise subject in all respects to the provisions of this order.

43. Damaged or lost Parking Permits will be replaced on application to the Council or a body authorised by it in writing and on payment of an administration fee to be determined from time to time by the Council or a body authorised by it in writing . The damaged or lost Parking Permit will then become immediately invalid.

44. Refunds will not be made for unused periods of a parking permit.

Validity of Pay and Display Tickets

45. A pay and display ticket is not transferable from one vehicle to another and on transfer the ticket ceases to be valid.

46. A pay and display ticket is valid in any parking place contained in the Schedule to this Order within the time specified on the ticket.

Expiry of parking period

47. The expiry of the period for which the charge specified for that Parking Place has been paid shall be indicated when there is exhibited on the vehicle a pay and display ticket and the time shown on the clock of the issuing ticket machine is later than the time at which the period for which a charge has been paid expired.

Ticket machine out of action

48. If at the time when a vehicle is left during the charging hours in a Parking Place and on the nearest ticket machine in that Parking Place there is a notice placed by any person duly authorized by the Council, indicating that the said ticket machine is out of order, then a ticket shall be obtained from another ticket machine within the same Parking Place (where provided).

No Pay and Display Ticket displayed

49. If at any time while a vehicle is left in a Parking Place no pay and display ticket or permit is displayed on that vehicle in the relevant position, it shall be deemed that the charge has not been paid.

Limit on time

50. Where, in the absence of a ticket machine or a ticket machine being out of order, no valid pay and display ticket can be obtained and displayed, vehicles may be left in a Parking Place but may not be left for longer than the maximum period of parking in that Parking Place as specified in the Schedule to this Order.

PART 4 - CONTRAVENTION OF ORDER

51. If a vehicle is left in a parking place during the permitted hours or in any road or length of road in contravention of any provision of this Order, a penalty charge shall be payable.

52. In the case of a vehicle in respect of which a penalty charge is payable, a Penalty Charge Notice showing the information required by Schedule 4B of the Traffic Management Act 2004 may then be issued by a Civil Enforcement Officer, in uniform, in accordance with section 76(3) of the said Act.

53. In the case of a vehicle in respect of which the penalty charge may have been incurred, it shall be the duty of the Civil Enforcement Officer to attach to the vehicle in a conspicuous position a Notice which shall include the following particulars:

(i) the grounds on which the Civil Enforcement Officer believes that the penalty charge is payable with respect to the vehicle;

(ii) the amount of the penalty charge which is payable;

(iii) that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the notice;

(iv) that if the penalty charge is paid before the end of the period of 14 days beginning with the date of the Notice, the amount of the penalty charge will be reduced by the specified proportion;

(v) that if the penalty charge is not paid before the end of the 28 day period a Notice to Owner may be served by the Council on the person appearing to be the owner of the vehicle; and

(vi) the address to which payment of the penalty charge must be made or sent.

54. The methods by which payment of the penalty charge shall be made, which shall be delivered or sent by post to reach the Council to arrive not later than the fourteenth day following the day on which the penalty charge notice was issued provided that if the said

fourteenth day falls upon a day on which the offices of the Council are closed the period within which the said charge shall be paid to the Council shall be extended until the next full day on which the said offices of the Council are open.

55. If the penalty charge is not paid within 28 days of the Notice to Owner, the charge may be increased by 50% on the issue of a Charge Certificate in accordance with the provisions of the Traffic Management Act 2004.

56. Continuing failure to pay may result in a judgment in the County Court against the owner to enable the Council to recover payments due.

57. A penalty charge notice affixed to a vehicle in accordance with the provisions of Article 52 shall not be removed or interfered with except by or under the authority of the owner or person in charge of the vehicle or the Council.

58. If a vehicle is left after a penalty charge has been incurred, a Civil Enforcement Officer in uniform or a person acting under his direction may attach to the vehicle an immobilisation device and a notice in accordance with the requirements of the Traffic Management Act 2004 and that vehicle shall only be released from the device on payment of the penalty charge, or as the case may be a reduced penalty charge, along with such release fee as may be required by the Council.

PART 5 - GENERAL

59. The restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirements imposed by any regulations made or having effect as if made under the Act of 1984 or by or under any other enactment.

PART 6 - VALIDITY

60. If a Court, the Department for Transport, the Welsh Government, the Adjudication Service 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.

PART 7 - REVOCATIONS

61. The following off-street Parking Places Orders and Variations are revoked as from the date this Order comes into operation:

The County of Dyfed (Off Street Parking Places) Pembrokeshire Coast National Park Car Parks Order 1991 and any and all Variation Notices made there under.

Dated this **day of** 2014

THE COMMON SEAL OF PEMBROKESHIRE

COUNTY COUNCIL was hereunto affixed in the

presence of

Authorised Signatory