

Dated: 6TH AUGUST 2020

**COTSWOLD DISTRICT COUNCIL (THE WHITEWAY CAR PARK, CIRENCESTER)
(OFF-STREET PARKING PLACES) ORDER 2020**

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(OFF-STREET PARKING PLACES) ORDER 2020**

COTSWOLD DISTRICT COUNCIL (“the Council”) in exercise of its powers under Sections 32, 35 and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 (“the 1984 Act”) and under the Road Traffic Act 1991 as amended (whether generally or in relation to the area of the Council) (“the 1991 Act”) and of all other enabling powers, with the consent of the Gloucestershire County Council in accordance with Section 39(3) of the 1984 Act and after consulting with the Chief Officer of Police in accordance with paragraph 20 of Schedule 9 to the 1984 Act, hereby make the following Order:-

**PART I
GENERAL**

Commencement and Citation

1. This Order shall come into operation on the [1st] day of [September] 2020 and may be cited as the Cotswold District Council (The Whiteway Car Park) (OFF-STREET PARKING PLACES) ORDER 2020

Interpretation

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

“**Approved Method of Payment**” means methods of payment including, but not limited to, payment by debit or credit card or credit card facilitated by on-site or remote verification by, for example, card reader or mobile phone text or phone call and full vehicle registration number is entered during the activation process or any other method of payment approved by the Council details of which are displayed at the Parking Place

“**Bank Holiday**” means any public holiday (other than a Saturday or Sunday) on which banks in England and Wales are closed

“Charging Hours” means the hours specified in column 5 of the First Schedule to this Order in respect of the Parking Place

“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

“Disabled Persons’ Badge” has the meaning given in Section 142 (1) of the 1984 Act

“Disabled Persons’ Vehicle” has the meaning given in Section 142 (1) of the 1984 Act

“Driver” in relation to a vehicle waiting in a Parking Place means an able-bodied person driving the vehicle at the time it was left in a Parking Bay or the person deemed to be the Driver under the terms of this Order

“Electric Vehicle” means any vehicle which uses one or more electric motors for propulsion

“Electric Vehicle Charging Bay” means an area of a Parking Place which is provided for the leaving of an Electric Vehicle and marked for Electric Vehicles and where apparatus which supplies electricity for the charging of Electric Vehicles is installed

“Emergency Services” means the Police, Fire and Ambulance Services

“Expiry Time” is the time indicated as paid until on the Pay and Display Ticket or Parking Device and is the time by which the vehicle must leave the Parking Place

“Motor Car” has the same meaning as in Section 136 (2) of the 1984 Act and shall include a “heavy motor car” as defined by Section 136 (3) of the 1984 Act and an Electric Vehicle as defined in this Order

“Motor Cycle” has the meaning assigned to it by Section 136 of the 1984 Act

"Motor Vehicle" has the meaning assigned to it by Section 136(1) of the 1984 Act and should be read to include Electric Vehicles

"Owner" means the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994

"Parking Bay" means an area of a Parking Place which is provided for the leaving of a vehicle of a class specified and indicated by markings on the surface of the Parking Place or signed or otherwise indicated by signs in the Parking Place

"Parking Charge" means the parking charges stipulated in Column 7 of the Schedule to be paid for the parking of Motor Vehicles left in the Parking Place

"Parking Device" means either a Pay and Display Ticket, Season Ticket, ticket, card, disc, token, permit, stamp or other similar device and any electronic, cash or cashless apparatus or device whether used in or on a vehicle or not and which being used either by itself or in conjunction with any other apparatus such as a computer device, smart phone, or touch tone cellular telephone, debit card, credit card or pre-paid system and which indicates or causes to be indicated the payment of any Parking Charge and the period in respect of which any Parking Charge has been paid and the time of the beginning or end of the period and valid for a parking period as detailed in the First Schedule

"Parking Place" means any area of land specified by name in the First Schedule and provided by the Council pursuant to Section 32(1) of the 1984 Act for use as an off-street car park and not closed (in part or in whole) by a notice, sign or barrier erected thereon by authority of the Council

"Pay and Display Ticket" means a ticket issued by the Ticket Machine located in the Parking Place in which the vehicle has been left or issued by a person nominated by the Council on payment of any Parking Charge and valid for a parking period as detailed in the First Schedule

"Penalty Charge" has the same meaning as in Section 78 of the Traffic Management Act 2004

“Penalty Charge Notice” means a notice issued or served by a Civil Enforcement Officer pursuant to the provisions of Section 78 of the Traffic Management Act 2004

“Relevant Position” means that any physical Parking Device or in the case of a Disabled Persons’ Badge, Part 1 (the front of the badge), is exhibited in a conspicuous position facing forward on or inside the vehicle and can easily be viewed by the Civil Enforcement Officer from the front of the vehicle

“Season Ticket” means either:

a) a ticket or permit issued by the Council to be displayed in the Relevant Position; or

b) an electronic record

authorising the holder to park the nominated Motor Car in one or more Parking Places nominated by the Council and valid for the parking period and Parking Places as specified and subject to conditions or limitations which may be imposed on its use

“Ticket Machine” means an apparatus of a type and design approved by the Secretary of State for Transport for the purpose of this order, being apparatus designed to indicate the time by a clock and to issue Pay and Display Tickets which show that a payment has been made of an amount or for a period specified thereon and which specify the date and, either the time of such payment, or the time at which the vehicle must leave the Parking Place

“Trailer” means a vehicle drawn by a Motor Vehicle and includes a caravan or boat trailer

3. Except where the context requires otherwise, any reference in this Order to an Article or Schedule shall be construed as a reference to that Article or Schedule in this Order
4. 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
5. The Interpretation Act 1978 shall apply for the interpretation of this Order

PART II
DESIGNATION AND USE OF PARKING PLACES

Designation

6. The Parking Places may be used, subject to the provisions of this Order, as a place to leave vehicles of such classes, in such positions, on such days, during such hours, for such period and on payment of such charges as are specified in relation thereto in the First Schedule and on such terms and conditions as are advertised at each Parking Place.

Class and position of vehicle

7. Where in the First Schedule the Parking Place is described as available for vehicles of a specified class or vehicles to be left in a specified location, no person shall permit a vehicle to wait in that Parking Place,
- (i) unless it is of the specified class;
 - (ii) unless it is wholly within a marked Parking Bay;
 - (iii) in a position marked for use by a Disabled Persons' Vehicle unless It Is a Disabled Persons' Vehicle which displays in the Relevant Position a Disabled Persons Badge;
 - (iv) in a position marked for use by an Electric Vehicle unless it is a Electric Vehicle which is charging using the apparatus installed;
 - (v) in a position marked for use by parent and child unless the Driver is accompanied by a child
 - (vi) in a position other than that specified.

Maximum period of stay

8. Where in the First Schedule the 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 or wait in that Parking Place on any day, during such hours or for any period other or longer than those specified

Period of no return

9. Where in the First Schedule the Parking Place is described as having a period within which a vehicle may not return, no person shall permit a vehicle to wait in the Parking Place on any day, during such hours within which the vehicle is excluded from waiting in the Parking Place

Season Ticket

10. Nothing in Articles 8 and 9 shall preclude a vehicle subject to a valid Season Ticket from being parked without payment of the daily charge in the relevant Parking Places specified.

Power to close or suspend Parking Places

11. Nothing in this Order shall prevent the Council or its representative by notice, sign or barrier displayed in the Parking Place:
 - (i) from closing the Parking Place or any part thereof for any period; and/or
 - (ii) from setting aside the Parking Place or any part or parts thereof on all days or on certain days or during certain parts of days for use only by particular vehicles or organisations
12. Any person suspending the use of the Parking Place or any part thereof in accordance with the provisions of Article 10 shall thereupon place or cause to be placed in or adjacent to the Parking Place or that part thereof a notice, sign or barrier indicating that the use of the Parking Place or that part thereof is suspended and that waiting by vehicles is prohibited
13. No person shall cause or permit a vehicle to be left in the Parking Place or any part thereof during such periods that the use of the Parking Place or that part thereof is suspended or during such period as there is in or adjacent thereto a notice, sign or barrier placed by or on behalf of the Council in pursuance of the preceding Article 10 and Article 11

Additional Apparatus or Parking Devices

- 14 The Council may without notice provide or make provision for additional apparatus or Parking Devices for the payment of a Parking Charge at the Parking Place

PART III
CHARGES FOR PARKING

Payment for Parking

15. The Driver of a vehicle using the Parking Place shall upon leaving the vehicle in the Parking Place pay the appropriate charge (if any) stipulated in Column 7 of the First Schedule

16. Payment of the Parking Charge shall be made in every case in accordance with the conditions and instructions displayed in the Parking Place by an Approved Method of Payment and using any Parking Device provided by the Council at the Parking Place for payment of the Parking Charge in the Parking Place being (for example but without limitation) by means of:
 - 15.1 The purchase of a Pay and Display Ticket from the Ticket Machine; or
 - 15.2 By paying a parking Civil Enforcement Officer; or
 - 15.3 Through any electronic cashless payment facility provided by or on behalf of the Council either through a Parking Device located within the Parking Place or remotely using the Driver's own computer, device, smart phone or touch tone cellular telephone, debit or credit card or prepaid card system

- 17 Where payment of the Parking Charge is made using the Ticket Machine the Pay and Display Ticket issued upon the payment of the Parking Charge shall be displayed in the Relevant Position on the vehicle in respect of which it was issued at all times whilst is left in the Parking Place

Validity of Pay and Display Tickets

18. A Pay and Display Ticket is not transferable from one vehicle to another

19. A Pay and Display Ticket issued by the Ticket Machine is valid only in the Parking Place in which it was issued.

- 20 No person shall:
 - 20.1 after obtaining a Pay and Display Ticket alter the indications given by that Pay and Display Ticket whilst the vehicle remains in the Parking Place;
 - 20.2 knowingly exhibit on any vehicle any Pay and Display Ticket which has been altered, defaced, mutilated or added to or upon which the figures or particulars have become illegible:

- 21 When a Pay and Display Ticket has been exhibited on a vehicle in the Relevant Position no person shall remove the Pay and Display Ticket from the vehicle until the vehicle is removed from the Parking Place

Payment other than by use of the Ticket Machine

- 22 Where payment of the Parking Charge is made using a Parking Device other than the Ticket Machine, provided that the payment is fully and properly made it shall not be a requirement of this Order to display a Pay and Display Ticket on the vehicle in respect of which such Parking Charge is made and such failure to display shall not be a contravention of the Order.

Validity of Payment made other than by use of the Ticket Machine

- 23 To be valid any payment of the Parking Charge made using a Payment Device other than the Ticket Machine must be registered in an account in an electronic database approved by the Council and an indication that payment has been made and the parking period for which payment has been made shall either:
- 22.1 appear on a hand-held device; or
 - 22.2 be obtained by a Civil Enforcement Officer contacting the service provider

Charge not paid

- 24 Without prejudice to the provisions of this Order, if at any time while a vehicle is left in the Parking Place:
- 24.1 no Pay and Display Ticket is displayed on that vehicle in the Relevant Position;
 - 24.2 there is no indication that payment has been made by any other Parking Device; and
 - 24.3 the vehicle is a Disabled Persons' Vehicle exhibiting in the Relevant Position a Disabled Persons Badge;
- it shall be deemed that the Parking Charge has not been paid

Expiry of parking period

24. Expiry of the period for which the Parking Charge specified for the Parking Place has been paid shall be indicated:
- 24.1 where a Pay and Display Ticket is displayed on the vehicle, the time shown on the clock of the Ticket Machine is later than the Expiry Time indicated on the Pay and Display Ticket; or

24.2 where payment of the Parking Charge has been made by another Parking Device, there is an indication that the period for which payment has been made and recorded has been exceeded

Season Tickets

25. Season Tickets are available from the Council at the appropriate fee, for a vehicle of a specific class and for a specific Parking Place subject to terms and conditions determined by the Council
26. The Driver shall abide by the terms stipulated by the Council for the use of the Season Ticket
27. A Season Ticket is only valid in the Parking Place(s) in respect of which it was issued and up to the date of expiry shown on the Season Ticket
28. A Season Ticket remains the property of the Council and must be surrendered on request. In such instances where a refund is appropriate this will be provided in accordance with the Council's terms and conditions.

Parking Devices defective/inoperable

- 29 Where alternative Parking Devices for payment of the Parking Charge are provided but one or more of them are defective then the Driver shall pay the Parking Charge using one of the alternative Parking Devices
- 30 Upon any occasion when a vehicle is left in a Parking Place during Charging Hours when all Parking Devices provided by or on behalf of the Council (as opposed to a computer, smart phone or touch tone telephone provided by the Driver) are inoperable and there is no Civil Enforcement Officer present the Driver of the vehicle shall be exempt from the requirement to pay the Parking Charge on that occasion only.

Exemption from Daily Charges for Vehicles belonging to the Emergency Services

31. No Parking Charge shall be payable in respect of a vehicle belonging to the Emergency Services attending an emergency

PART IV
RELOCATION AND REMOVAL OF VEHICLES

Relocation of a vehicle

32. Where any vehicle is standing in the Parking Place in contravention of the provisions of this Order, or is left in such a manner so as to cause danger or obstruction, a Civil Enforcement Officer or a person authorised by the Council may alter or cause to be altered the position of the vehicle

Removal of a vehicle

33. Where a Civil Enforcement Officer or a person authorised by the Council is of the opinion that any of the provisions contained in this Order have been contravened or not complied with in respect of a vehicle left in the Parking Place he/she may, using such measures as are appropriate, remove or cause to be removed the vehicle from the Parking Place

Emergencies

34. A Civil Enforcement Officer, a person authorised by the Council or a member of the Emergency Services in uniform may, using such measures as are appropriate, move or cause to be moved in the case of an emergency to any place he/she thinks fit, any vehicle left in the Parking Place

Safe keeping

35. Any person removing a vehicle from the Parking Place under the preceding Articles shall make such arrangements as may be reasonably necessary to provide for the safe keeping of the vehicle

PART V
OTHER PROVISIONS

Stop engine and apply brakes

36. The Driver of a Motor Vehicle using the Parking Place shall, subject to the following proviso stop the engine as soon as the vehicle is in the Parking Bay and shall not start the engine except when about to change the position of the vehicle in or to depart from the Parking Place PROVIDED THAT in the case of a

Motor Vehicle which is fitted with equipment to assist disabled passengers to alight from or board the vehicle, where the vehicle's engine is required to operate that equipment the Driver shall stop the engine as soon as the vehicle is in the Parking Bay and the equipment has been used to assist all the disabled passengers travelling in the vehicle to alight from it and shall not start the engine except when the equipment is required to assist disabled passengers to board the vehicle or when about to change the position of the vehicle in or to depart from the Parking Place;

37. The Driver of a Motor Vehicle using the Parking Place shall, except in the case of a Motor Cycle, set or apply the braking system of the vehicle so as to prevent effectually at least two, or in the case of a vehicle with three wheels or less, one, of the wheels from revolving when the vehicle is not being driven or is left unattended

Repair of vehicles in the Parking Place

38. No person shall, while a vehicle is in the Parking Place, permit the carrying out of any work of maintenance or repair thereto except such as may be necessary to enable the vehicle to be moved from the Parking Place

Vehicle Tax and Insurance

39. No person shall permit any vehicle to wait in the Parking Place unless:
- 39.1 the vehicle is licensed in pursuant of the provisions of the Vehicle Excise and Registration Act 1994;
- 39.2 there is in relation to the use of the vehicle by the Driver such a policy of insurance as complies with requirements of the Road Traffic Act 1988;

Entry and Exit

40. Where signs are erected or surface markings are laid for the purpose of indicating the entrances to or exits from the Parking Place; or indicating that a vehicle proceed in a specified direction, no person shall drive or cause to be driven any vehicle;
- 40.1 so that it enters the Parking Place otherwise than by an entrance, or leaves the Parking Place otherwise than by an exit;
- 40.2 in a direction other than that specified, as the case may be;
- 40.3 In a manner or at a speed so as to cause danger to other users of the Parking Place

Use of vehicles and the Parking Place

41. No person shall in the Parking Place:
- 41.1 without the express written permission of the Council, use a vehicle, in connection with the sale of any article, including the vehicle itself, to any person in or near the Parking Place or in connection with the selling or offering for hire of skill or services in any other capacity;
 - 41.2 sound any horn or other similar instrument except when about to change the position of the vehicle or to depart from the Parking Place;
 - 41.3 except with the permission or at the direction of a Civil Enforcement Officer or a person authorised by the Council or a police constable in uniform, drive any vehicle other than for the purpose of leaving the vehicle in the Parking Place in accordance with the provisions of this Order or for the purpose of departing from the Parking Place or for the purpose of visiting any amenity site in the Parking Place;
 - 41.4 use any part of the Parking Place or a vehicle in the Parking Place without the express written permission of the Council for;
 - (a) sleeping or camping purposes;
 - (b) cooking purposes;
 - (c) the purpose of washing, valeting or servicing any vehicle
 - (d) the transfer of goods of any description from one vehicle to another or the loading and unloading of goods
 - 41.5 use the Parking Place solely as a means of passage proceeding from one road to another;
 - 41.6 deposit or leave any vehicle, Trailer, or anything which formed part of a vehicle or Trailer, or any rubbish, litter or anything with the purpose of abandoning it there
 - 41.7 wantonly shout or otherwise make any noise to cause disturbance or annoyance to users of the Parking Place or residents or other occupiers of adjacent premises;
 - 41.8 act in a manner to cause nuisance or danger to any Parking Place user, resident or other person;
 - 41.9 without the express written permission of the Council, erect or cause or permit to be erected, any tent, booth, stand, building or other structure;
 - 41.10 light or cause to be lit a fire;
 - 41.11 play any ball game or participate in any sporting or recreational activity.

- 41.12 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
- ~~41.13 carry on any trade or business of whatever description without the prior written consent of the Council~~
- 41.14 distribute, allow to be or cause to be distributed or place on any vehicle any literature, advertising material or handbill except with the prior written consent of the Council and upon payment of a fee determined by the Council
- 41.15 transfer fuel out of or into a vehicle except where necessary to allow the vehicle to be driven away
- 41.16 drive a vehicle in the Parking Place at a speed in excess of 10 miles per hour.
- 41.17 use a vehicle in contravention of the directions of a Civil Enforcement Officer

Animals and Parking Places

42. No dog or other animal shall be allowed to foul the Parking Place.
- 43 Any animals in the Parking Place shall be kept under control
44. Sufficient ventilation and other comforts shall be provided if an animal is left in a vehicle in the Parking Place
45. Where it is considered by the Civil Enforcement Officer or a person authorised by the Council or a police constable in uniform that an animal is suffering due to being kept in an enclosed vehicle in hot or inappropriate conditions it shall be the duty of that person to take whatever action is considered necessary to relieve that suffering including the breakage of window, glass or locks of the vehicle
46. Large animals such as horses and farm livestock shall not be permitted to enter the Parking Place except as herein reserved

Emergency Services Vehicles

47. All vehicles belonging to the Emergency Services when attending any emergency may use the Parking Place and be exempt from compliance with any of the conditions specified in this Order

**PART VI
LIABILITY**

Liability

48. The Council accepts no liability for the loss or damage to vehicles or other property left in the Parking Place to which this Order applies

**PART VII
CONTRAVENTION AND PENALTY CHARGE**

Contravention

49. If a vehicle is left in the Parking Place without complying with the requirements of this Order, a contravention shall have occurred and a Penalty Charge shall be payable. A Penalty Charge Notice showing the information required by the Traffic Management Act 2004 may then be issued by a Civil Enforcement Officer in accordance with the requirements of the Traffic Management Act 2004
50. The Council may treat the indications given by any apparatus or Parking Device provided by or on behalf of the Council for the payment of the Parking Charge as the means to indicate the time at which a vehicle arrived at and the time at which it ought to leave the Parking Place or one or other of those times

Notice of Penalty Charge

51. In the case of a vehicle in respect of which the Penalty Charge may have been incurred, it shall be the duty of a Civil Enforcement Officer to attach to the vehicle in a conspicuous position a Penalty Charge Notice in accordance with the Traffic Management Act 2004

Restriction on removal of notices

52. A Penalty Charge Notice fixed to a vehicle in accordance with the preceding Article shall not be removed or interfered with except by or under the authority of:
- 52.1 the Owner, the Driver or person in charge of the vehicle;
- 52.2 a Civil Enforcement Officer or some other person duly authorised by the Council

Payment of Penalty Charge

53. The Penalty Charge shall be payable by the person liable under the provisions of the Traffic Management Act 2004 in accordance with the terms and conditions as stated on the Penalty Charge Notice

Indications as Evidence

54. The particulars given in the Penalty Charge Notice attached to a vehicle in accordance with this Order shall be treated as evidence in any proceedings relating to failure to pay such Penalty Charge

**PART VIII
NOTICES**

55. Where under the foregoing provisions of this Order a notice is required to be or may be sent to a person the notice shall be sent by prepaid post

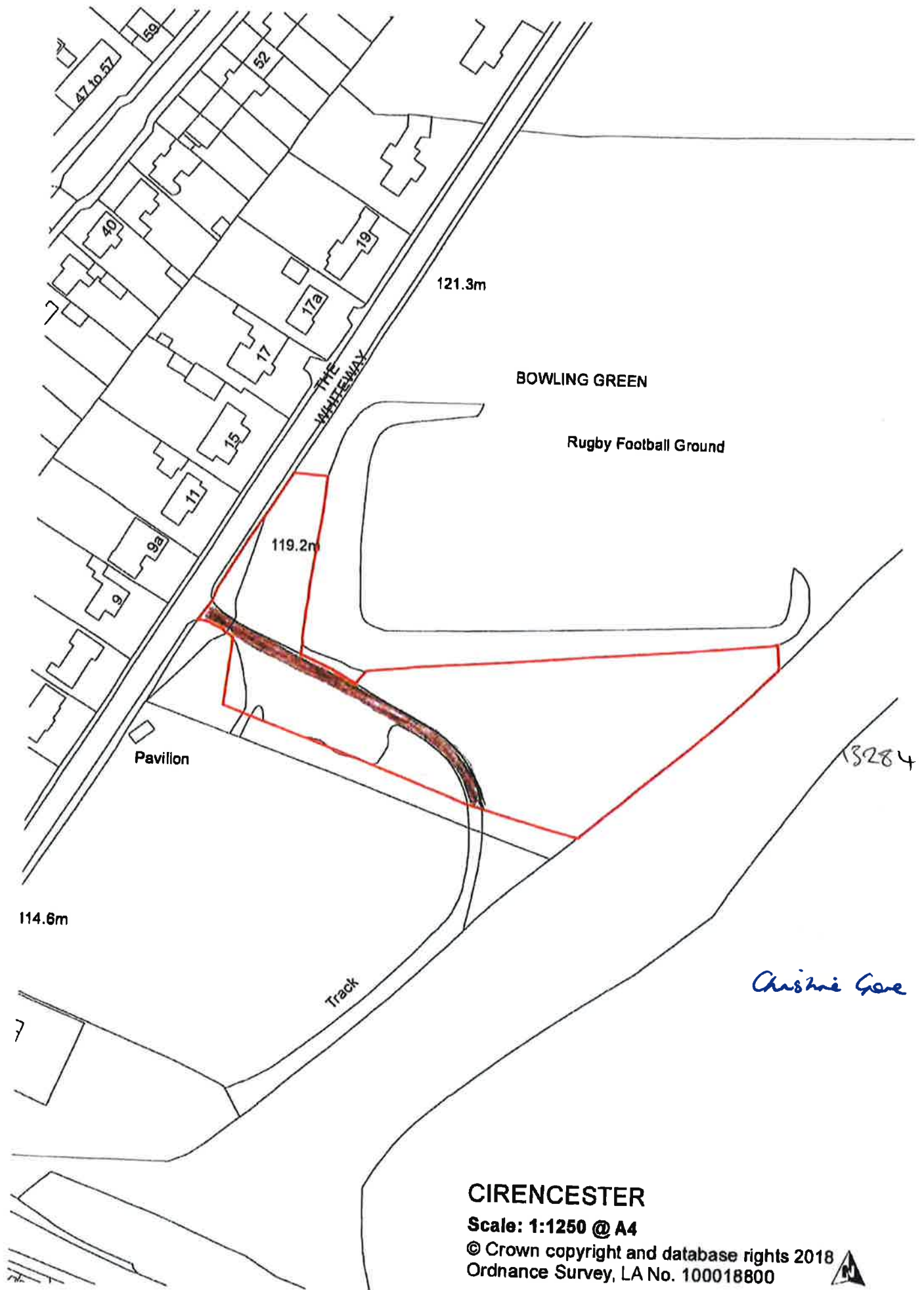
THE COMMON SEAL of)
COTSWOLD DISTRICT COUNCIL)
was affixed on in the presence of:-)



Authorised Signatory *Christine Gae*

THE FIRST SCHEDULE

NAME AND SITUATION OF PARKING PLACE AND PLAN NO. 1	POSITION IN WHICH VEHICLE MAY WAIT 2	CLASSES OF VEHICLE 3	DAYS OF OPERATION OF PARKING PLACE 4	DAYS AND HOURS WHEN CHARGES WILL BE MADE 5	MAXIMUM PERIOD FOR WHICH VEHICLES MAY WAIT DURING THE CHARGING HOURS 6	SCALE OF PARKING CHARGES 7
1. CIRENCESTER, The Whiteway-Motor Cars	Wholly within a Parking Bay	Motor Cars	Monday to Friday	Between the hours of 7:30am and 7:30pm Monday to Friday excluding Bank Holidays	12 hours in any one day	Season Ticket 12 Months £550
2. CIRENCESTER, The Whiteway-Motor Cycles	Only within a Parking Bay set aside for the use of Motor Cycles	Motor Cycles	Monday to Friday	Between the hours of 7:30am and 7:30pm Monday to Friday excluding Bank Holidays	12 hours in any one day	Free
3. CIRENCESTER, The Whiteway-Disabled persons' Vehicles	Wholly within a Parking Bay	Disabled Persons' Vehicles	Monday to Friday	Between the hours of 7:30am and 7:30pm Monday to Friday excluding Bank Holiday	12 hours in any one day	Free



CIRENCESTER

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