

East Lothian Council (Countess Crescent, Dunbar) (Prohibition of Motor Vehicles) Order 2018

TO – 014/18

East Lothian Council in exercise of the powers conferred on them by Parts 1, 2 and 3 of the Road Traffic Regulation Act 1984 (“the Act”) and of all other enabling powers and after consultation with the Traffic Commissioner and the Chief Constable of Police Scotland in accordance with Parts III and V of Schedule 9 to the Act hereby make the following Order.

Citation

1. This Order may be cited as the “East Lothian Council (Countess Crescent, Dunbar) (Prohibition of Motor Vehicles) Order 2018” and shall come into effect on the Fifth day of March Two Thousand and Eighteen.
2. The restrictions imposed by this Order shall be in addition to and not in derogation of any restriction or requirement imposed by any regulations made under the 1984 Act or by or under any other enactment.

Interpretation

3. In this Order: -
 - a. “Chief Constable” means Chief Constable of Police Scotland.
 - b. “Council” means the East Lothian Council.
 - c. “Cyclist” being a person proceeding by means of or with a pedal cycle.
 - d. “Disabled Person’s Badge” has the same meaning as regulation 3(1) of the Disabled Persons (Badges for Motor Vehicles) Regulations 1982.
 - e. “Disabled Person’s Vehicle” has the same meaning as The Local Authorities Traffic Orders (Exemptions for Disabled Persons) (Scotland) Regulations 1991.
 - f. “Emergency Service Vehicle” means a vehicle being used by the Police, Fire Brigade or Ambulance Services.
 - g. “Pedal Cycle” means a unicycle, bicycle, tricycle or cycle having four or more wheels, not being in any case mechanically propelled unless it is an electrically assisted pedal cycle of such class as is to be treated as not being a motor vehicle for the purposes of the Road Traffic Regulation Act 1984.
 - h. “Pedestrian” being a person proceeding on foot.
 - i. “Residents Vehicle Permit” means a badge, disc or voucher issued by the Council in accordance with the provisions of this Order, to a person who ordinarily resides in a dwelling house in the roads specified in Schedule 2 to this Order.
 - j. “Vehicle” unless the context otherwise requires, means a vehicle of any description and includes a machine or implement of any kind drawn or propelled along roads whether or not by mechanical power.

Prohibition of Driving between Stated Times

4. Save as provided in paragraphs (a) and (b) of this Article and Articles 5 and 6 of this Order, no person shall drive or cause to be driven any vehicle on the lengths of road specified in Schedule 1 to this Order between the hours of 8.30am and 9.30am and 3.00pm and 4.00pm Monday to Thursday and the hours of 8.30am and 9.30am and 11.45am and 12.45pm on Friday during school term time.

a. Article 4 shall not apply to any disabled person's vehicle which (i) displays in the relevant position a disabled person's badge issued by a local authority in exercise of its powers under Section 21 of the Chronically Sick and Disabled Persons Act 1970.

b. Article 4 shall not apply to cyclists using a pedal cycle.

5. Article 4 shall not apply to any vehicle displaying a resident's vehicle permit for the streets listed in Schedule 2 to this Order.

6. Nothing in Article 4 of the Order shall prevent any person from causing a vehicle to drive on the roads referred to in that article for so long as may be necessary: -

a. to enable the vehicle, if it cannot conveniently be used for such purpose in any other road to be used in connection with any building operations or demolition, the removal of any obstruction to traffic, the maintenance or reconstruction of any of the lengths of road so referred to, or the execution in any of the said lengths of road of road works as defined in the New Roads and Street Works Act 1991.

b. to enable the vehicle to be used by the emergency services;

c. to enable the vehicle, if it cannot be conveniently used for such purposes in any other road to be used in pursuance of statutory powers and duties;

d. if the vehicle is in the service of or employed by the Post Office and is waiting or driving in any of the lengths of the roads specified in Schedule 1 to this Order while postal packets addressed to the premises adjacent thereto are being unloaded from the vehicle or having been unloaded from the vehicle or having been unloaded therefrom are being delivered or while postal packets are being collected from premises or pillar boxes adjacent thereto;

e. to enable the vehicle to be used by a qualified medical practitioner engaged on a house call;

f. to enable the vehicle to be used for delivery purposes by registered delivery companies or the discharge of trade or professional services

g. to enable the vehicle to be used for the purpose of a funeral service.

h. to enable the vehicle to be used in the provision of a social care service.

7. Given under the seal of East Lothian Council this Fifth day of March Two Thousand and Eighteen.

Schedule 1 – Prohibition of Driving 8.30am-9.30am and 3.00pm-4.00pm Monday to Thursday and 8.30am-9.30am and 11.45am and 12.45pm Friday during School Term Time

1. Countess Crescent - From the extended north kerb line of Countess Road north-eastwards for a distance of 130 metres or thereby to the extended west kerb line of Countess Avenue.

Schedule 2 – Resident Vehicle Permits

1) Introduction

Motorists who are residents of the restricted streets of Dunbar (as defined in Schedule 1 to this Order) who require to use their vehicles during the controlled hours, should ensure that their application for a vehicle permit is lodged with East Lothian Council (“the Council”)

2) Residents’ Vehicle Permits

The Council’s scheme gives exemption to residents’ vehicles from the prohibition of driving in the restricted streets of Dunbar (as defined in Schedule 1 to this Order). This exemption is available to residents for their passenger vehicles, motorcycles or invalid carriages. It is an offence to drive or cause to be driven any vehicle on the restricted streets at any time during the controlled hours without displaying a valid permit.

The controlled hours are 8.30am-9.30am and 3.00pm-4.00pm Monday to Thursday and 8.30am-9.30am and 11.45am and 12.45pm Friday during School Term Time.

Residents requiring a permit should apply for the necessary application forms from the Head of Infrastructure, John Muir House, Haddington, East Lothian, EH41 3HA. Completed forms should be sent to the same address.

3) Definition of a Resident

A “resident” means a person who is solely or mainly resident at premises situated in the lengths of road specified in Schedule 1 to this Order. A person who does not regularly live and sleep in such premises does not qualify. Temporary residence does not qualify.

4) Definition of an Owner

Residents who own passenger vehicles, motor cycles or invalid carriages are eligible for a permit. This Order defines “owner” as the person by whom such a vehicle is kept and used. The vehicle need not be registered in the resident’s name but it is emphasised that the scheme is designed to assist full-time residents who habitually keep and use motor vehicles under their care and control, on a permanent basis and who need to drive on the restricted lengths of road during the controlled hours.

5) Applications for, or Renewal of, a Permit

Applications for permits should be lodged with the Council. If the applicant is a “resident” and the “owner” of an appropriate motor vehicle, a permit may be issued for a period not exceeding 18 months initially. The Council are empowered to require that an application for a permit, or a permit holder produce such evidence as may be reasonably required to verify any particulars or information that is supplied to them. The Council may withdraw a permit if it appears that any of the particulars supplied are false. Permits issued to a “resident” must be in respect to a specified vehicle. A permit may be issued to any member of a family who qualifies, and who keeps, and uses a motor vehicle. Permits are not transferable. Care should be taken that they do not fall into the hands of non-residents, particularly when vehicles change hands. The permit should be removed for safekeeping when a vehicle is not under the permit holder’s control. Residents can also apply for a book of visitor permits, one per household, which can be obtained as per the resident’s permits.

6) Issued Permits

Permits will normally be issued for a period of 12 months, but the initial period of issue will vary (not exceeding 18 months) to help regulate the issue of renewals. Permit holders will be issued with an appropriate form to enable them to apply for renewal when appropriate, provided that there has been no change of circumstances since the original application was made. Permits will record the period of validity and the fact that it refers to the restricted roads specified in Schedule 1 to this Order with the residents' permits also indicating the registration number of the vehicle.

7) The Surrender or Withdrawal of Permits and the Issue of Duplicate Permits

A permit holder will be required to surrender his/ her permit to the Council if he /she ceases to be a resident in the restricted road specified in Schedule 1 to this Order, or ceases to be the owner of a vehicle recorded on it, or the permit otherwise ceases to be valid. For example, if a vehicle is used by a person to whom it has been let for hire or reward.

A permit may be recalled by the Council.

The Council on application will issue a duplicate permit, if the permit is mutilated or accidentally defaced.

A duplicate permit will be issued on written application and the payment of a charge of £20 if the permit is lost or destroyed.

8) Issue of New Permits for a Change of Vehicle

The Council are not authorised to issue a permit which would be valid for the same period as any other permit issued to the holder. The current permit must therefore be surrendered before a new permit can be issued when the ownership of vehicle changes. If possible, applicants wishing to change permits on a change of vehicle should call at the Head of Infrastructure, East Lothian Council, John Muir House, Haddington EH41 3HA, in order to expedite the issue of a new permit promptly.

9) The Displaying of a Permit by Residents and Visitors

Strict enforcement of the Order is essential to ensure that the scheme benefits those who are eligible. The Order provides that the owner of the vehicle should, when the vehicle is left in an on-site parking space during the permitted hours, display a valid permit. The permit should be inserted in the plastic holder supplied by the Council and displayed at the front of the vehicle, preferably above or beside the vehicle excise licence.

10) Enforcement of the Order

Responsibility for the enforcement of the Order rests with the Police Scotland. If the permit is not displayed during the permitted hours and a vehicle is driven within the restricted streets, an offence will have been committed and a Fixed Penalty Notice may be issued. Strict compliance with the requirements of the Order will assist Police Scotland.

11) Offences and Penalties

It is a criminal offence to make a false statement in order to assist with the issuing of a permit to yourself or any other person. Any applicant suspected of doing so will be reported to the police, who in turn will, as may be appropriate, report the circumstances to the Procurator Fiscal for East Lothian with a view to a possible criminal prosecution.

Specifically under Section 115 of the Road Traffic Regulation Act 1984, it is a criminal offence where any person with intent to deceive uses or lends to, or allows to be used by, any other person, any permit, or makes or has in his possession any document so closely resembling any permit as to be calculated to deceive or who forges or alters any permit, if such an offence is prosecuted on indictment the maximum penalty is two years imprisonment. If such an offence is prosecuted summarily you may receive a substantial fine. It is also a criminal offence under section 115 of the 1984 Act for a person to knowingly make a false statement in order to obtain a permit for himself or any other person. The maximum fine for such an offence is currently £2,500.

It is an offence to drive or cause to be driven any vehicle within the restricted roads at any time during the controlled hours without displaying a valid permit, even if an application has been posted and / or deposited with the Head of Infrastructure by hand.

Authorised Signatory
East Lothian Council
John Muir House, Haddington