THE PADSTOW TOWN COUNCIL (OFF-STREET PARKING PLACES) ORDER 2021

The Padstow Town Council (hereinafter referred to as "The Council") in exercise of its powers under Sections 35, 57 and 59 (and Part IV of Schedule 9) of the Road Traffic Regulations Act 1984 (hereinafter referred to as "the 1984 Act") and the Traffic Management Act 2004 (hereinafter referred to as "the 2004 Act" and of all other enabling powers, and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 of the 1984 Act, and with the consent of the Cornwall Council given under Section 59 of the 1984 Act, HEREBY MAKES THE FOLLOWING ORDER:-

PART I - GENERAL

COMMENCEMENT AND CITATION

- 1.1 This Order shall come into operation on 1 March 2021 and may be cited as "The Padstow Town Council (Off-Street Parking Places)
 Order 2021"
- 1.2 The "Padstow Town Council (Off-Street Parking Places) Order 2015" is revoked save and except for the offences committed there under before the date of coming into operation of this Order.

DEFINITIONS AND INTERPRETATION

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

- (a) "Approved Device" means a device used for statutory purposes in accordance with the Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007.
- (b) "Blue Badge" means a disabled persons badge issued by any local authority in accordance with the provisions of The Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (as amended from time to time) or a badge having effect under those Regulations as if it were a disabled persons badge;
- (c) "Civil Enforcement Officer" has the same meaning as Section 76 of the 2004 Act:
- (d) "Driver" in relation to a Vehicle in a parking place means the person driving the Vehicle at the time it was driven into and/or left in the Parking Place and for the purposes of the Order and any legal proceeding taken thereunder if on the date a Vehicle is driven into and/or left in a Parking Place a person is shown to have been the Registered Owner or keeper thereof by notification from the appropriate Registration Authority that person shall be deemed to have been the Driver of the Vehicle on that date unless the contrary is shown;
- (e) "Enforcement Authority" means Cornwall Council and any statutory successor;
- (f) "Mobile Telephone Payment" means the purchase of a period of parking by using an electronic device to facilitate a cashless and ticketless parking transaction;
- (g) "Motor home / Camper" means any vehicle constructed or adapted for use as a mobile place of sleeping accommodation;

- (h) "Owner" has the same meaning as in Section 92 of the 2004 Act;
- (i) "Parking Attendant" means a person authorised by or on behalf of The Council to supervise any Parking Place;
- (j) "Parking Permit" means any document issued or approved by The Council that allows a Vehicle to be parked in specific Parking Places and shall include but not be limited to: annual parking permits, season tickets, visitor/staff permits and parking space permits;
- (k) "Parking Place" means any area of land specified by name in Schedule 1 to this Order provided by The Council under Section 57 of the 1984 Act for the use of a Parking Place;
- (I) "Parking Space" means any part of the Parking Place intended for use by a Vehicle indicated by means of signs and or lines or as shown by a person authorised on that behalf by The Council;
- (m) "The Council" means Padstow Town Council and any statutory successor:
- (n) "The Regulations" means the regulations made from time to time by the Secretary of State pursuant to the 2004 Act;
- (o) "Trailer" means a vehicle drawn by a motor vehicle as defined in Section 136(1) of the Road Traffic Regulation Act 1984
- (p) "Vehicle" means (unless the context otherwise provides) any class or description of Vehicle and without prejudice to the above shall include a caravan or trailer. "Heavy motor car", "invalid carriage", "motor car", "motor cycle", "motor tractor", "heavy locomotive" and "light locomotive" have the same meaning as in Section 136 of the

1984 Act and "public service Vehicle" has the same meaning as in the Public Passenger Vehicles Act 1981 and for the purpose of this Order "public service Vehicles" and Vehicles with 16 seats or more shall be referred to as "coaches" and "heavy motor cars", "motor tractor", "heavy locomotive" and "light locomotive" shall be referred to as "commercial Vehicles"

- 2.2 The Interpretation Act 1978 as amended shall apply for the interpretation of this Order as it applies to the interpretation on an Act of Parliament as if this Order was an Act of Parliament.
- 2.3 Unless expressly stated to the contrary any references to a specific statute or regulation includes any statutory extension or modification, amendment or re-enactment of that statute or regulation and any general reference to a statute includes any regulations or Orders made under that statute.

PART II - USE OF A PARKING PLACE

GENERAL

- 3.1 Each Parking Place specified by name in Schedule 1 (and as delineated on the plans attached to this Order) may be used, subject to the following provisions of this Order, as a Parking Place for such classes of Vehicle, in such positions, on such days, during such hours, and on payment of such charges, as are specified in relation to that Parking Place in Schedule 1 and shall include variation thereto by virtue of a Notice made pursuant to Section 35C of the 1984 Act.
- 3.2 The Council reserves the right:
 - to suspend the effect of all or part of this Order by means of appropriate signing;

- (ii) to close a Parking Place, or any part of it, for any period and for any reason and no driver of any Vehicle shall use the Parking Place, or any part of it, when it is so closed;
- (iii) to vary temporarily or permanently the classes of Vehicles that may use a Parking Place;

CLASS AND POSITION OF VEHICLE

- 4.1 Where in Schedule 1 of 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 unless it is:-
 - (a) of the specified class; and
 - (b) in a specified position being one where Parking Spaces are defined by markings on the ground or otherwise.
- 4.2 Where in Schedule 1 the Parking Place is described as available for Vehicles of a specified class (but no positions have been specified by means of markings upon the ground defining Parking Spaces) the Driver of a Vehicle shall not permit it to wait or be left in a Parking Place unless it is:-
 - (a) of the specified class; and
 - (b) in such position or positions as may be required by a Civil Enforcement Officer, Parking Attendant or other person duly authorised by The Council.

- 4.3 The Driver of a Vehicle shall not use a Parking Place which is subject to limitation or restriction on use as specified within Schedule 1 to this Order otherwise than in accordance with such limitation or restriction.
- 4.4 The Driver of a Vehicle shall not permit that Vehicle to wait in any Parking Place (or part thereof) listed in Schedule 1:-
 - (a) for longer than the maximum period permitted for waiting specified in relation to that Parking Place in Schedule 1;
 - (b) in a Parking Space where notice/markings are indicating reserved or permit holders without clearly displaying a valid Parking Permit for the Vehicle and Parking Place in question;
 - in a designated loading area unless the Vehicle is parked for the purpose of loading or unloading;
 - (d) in a designated restricted area or where waiting is by notice declared to be prohibited;
 - (e) beyond the markings of any Parking Space;
 - in a disabled person Parking Space without clearly displaying a valid Blue Badge;
 - in a designated pick-up area unless the Vehicle is waiting for the purpose of persons boarding and alighting;

OBSTRUCTION

5 The Driver of a Vehicle shall not, unless authorised by The Council:-

- use a Parking Place so as to unreasonably prevent other persons from obtaining access thereto or therefrom or otherwise cause an obstruction in the Parking Place or Parking Space;
- (b) park over or beyond the Parking Space markings or otherwise use a Parking Space so as to prevent other Vehicles from using adjoining Spaces;
- (c) park the Vehicle where cross hatching or yellow lines have been marked on the surface of the Parking Place, with exception of Motor cycles parked in accordance with 6.15

PAYMENT FOR USE AND TICKETS

- 6.1 The Driver of a Vehicle shall immediately upon first parking, unless otherwise instructed by a person duly authorised by The Council, in any of the Parking Places referred to in Schedule 1 pay the appropriate charge in accordance with the scale of charges specified in Schedule 1 unless the driver is the holder of a valid Parking Permit.
- 6.2 There will be no concessions for disabled drivers; the appropriate charge must be paid.
- 6.3 The charges referred to in Article 6.1 and specified in Schedule 1 shall be payable:-
 - by the insertion of an appropriate coin or coins into the apparatus or device provided; or
 - (b) where provision is made, by Mobile Telephone Payment; or
 - (c) where provision is made for use of a credit or debit card.

- 6.4 Where any parking apparatus is defective, it shall be the responsibility of the driver of a Vehicle to obtain a ticket of the appropriate denomination or kind from an alternative parking apparatus.
- 6.5 Any parking ticket issued on payment of the charge referred to in Article 6.1 will indicate the date and time of the ticket's expiration, the time and date of issue and payment of the charge. The payment indicated upon any such ticket shall be regarded as conclusive evidence as to the coinage accepted by the apparatus or device.
- 6.6 If during charging hours a Vehicle is left in a Parking Place and has displayed on it a parking ticket or tickets issued by a ticket issuing machine, the time indicated by the ticket issuing machine clock on the ticket or tickets shall be evidence as to whether the period has expired for which the initial charge shown on such ticket or tickets was paid. In any proceedings for failing to pay the penalty charge it shall also be evidence that a penalty charge was incurred. Where payment has been made by Mobile Telephone Payment evidence shall be provided by the Mobile Telephone Payment service provider.
- 6.7 (1) Any parking ticket, or Parking Permit referred to in Article 6.1 and
 - (2) any Blue Badge shall be displayed on the Vehicle in respect of which it was issued being:-
 - (a) in the case of a Motor cycle combination, in a conspicuous position on the Vehicle in front of the driving seat; and
 - (b) in the case of all other Vehicles:-

- (i) where the Vehicle is fitted with a transparent windscreen, facing forward on the dashboard or fascia, unless authorised differently by The Council, and
- (ii) where the Vehicle is not fitted with a transparent windscreen, on the Vehicle in a conspicuous position on the front or near side of the Vehicle

so that in each case, full details printed on the face of the ticket issued, Parking Permit or Blue Badge, are at all times visible and can clearly be read.

- 6.8 Where a charge is specified for a period, the whole of that charge shall be due and payable whether the Parking Place is used for all or part of that period.
- 6.9 The Driver of a Vehicle shall remove the Vehicle from the Parking Place before or upon the expiry of the time paid for.
- 6.10 The Driver of a Vehicle shall pay the appropriate charge for each Parking Space used or part thereof by the Vehicle.
- 6.11 The Driver of a Vehicle shall not use a Parking Place which is subject to a maximum period for parking therein for longer than such period. At the expiration of such maximum period the Driver shall remove the Vehicle from the Parking Place.
- 6.12 When a parking ticket, Parking Permit or Blue Badge has been exhibited on a Vehicle in accordance with the provisions of Article 6.7 of this Order no person shall remove the relevant ticket, Parking Permit or Blue Badge from the Vehicle until the Vehicle has been removed from the Parking Place.

- 6.13 The Owner of a Vehicle may on prior application to the Council purchase a Parking Permit for a charge ascertained by reference to the said scale of charges in Schedule 1 and such a ticket shall be valid in such Parking Places as specified during the period for which it was issued.
- 6.14 Tickets purchased are not transferable between Vehicles.
- 6.15 Except where specified in Schedule 1 Motor cycles may park without charge in such places so as not to cause an obstruction to other users of a Parking Place or as directed by a person duly authorised by The Council. A Motor cycle occupying a Parking Space shall pay the appropriate charge for that Parking Space.

MISCELLANEOUS PROVISIONS

- 7 The Driver of a Vehicle may not enter upon, use or attempt to use a Parking Place when The Council have closed that Parking Place or have placed restrictions on use of that Parking Place and exhibited notice of such closing or restrictions on or near the Parking Place.
- Whilst using a Parking Place a Trailer shall, without the prior consent of The Council, remain connected to the towing Vehicle.
- 9 No person shall place a caravan in a Parking Place.
- The Driver of a Vehicle using a 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.
- No person shall without the prior written consent of The Council use a Vehicle while it is in a Parking Place in connection with the sale of or

offering for sale any article to any person or persons in or near the Parking Place or in connection with the selling or offering for hire of any skill or service.

- 12 No person shall place or attach to or cause to be placed or attached to any Vehicle in a Parking Place any leaflet or advertising material whatsoever without prior authorisation from The Council.
- 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 Section 1 of the Vehicle Excise and Registration Act 1994 and unless there is in relation to the use of the Vehicle by the Driver such a policy of insurance as complies with the requirements of Part VI of the Road Traffic Act 1988.
- 14 The Driver of a Vehicle using a Parking Place shall not sound any horn or similar instrument except when about to change the position of the Vehicle in or to depart from the Parking Place and only when the circumstances demand an audible warning.
- No person shall, except with the permission of any person duly authorised by The Council drive any Vehicle in a Parking Place other than for the purpose of leaving that Vehicle in that Parking Place in accordance with the provisions of this Order or for the purpose of departing from that Parking Place
- No person shall without the written consent of The Council use any part of a Parking Place or Vehicle left in that Parking Place for the purposes of:-
 - (a) sleeping or camping;
 - (b) eating or cooking;

- (c) servicing, washing, painting or otherwise any Vehicle or part thereof other than is reasonably necessary to enable that Vehicle to depart from the Parking Place; or
- (d) selling any object or food or drink or other comestible matter.
- 17 No person shall without the consent of The Council erect or cause or permit to be erected any tent, booth, stand, building, or other structure on a Parking Place.
- No person without the consent of The Council shall light or cause to permit to be lit any fire.
- 19 No person shall use a Parking Place as a means of passage proceeding from one road to another or to a property not owned by The Council without the express consent in writing of The Council.
- Where in a 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; or
 - (c) indicating the maximum speed limit 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 that Parking Place otherwise than by an exit so indicated; or
 - (ii) in a direction other than that specified; or

- (iii) at a speed in excess of that specified.
- No person shall in a 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.
- No person shall in a Parking Place engage in pedal cycling, skateboarding, roller-skating, ball games, or games of any description unless authorised by The Council or do anything which is or may be a nuisance or annoyance to any person or to users of the Parking Place or residents of premises in the neighbourhood.
- No person shall in a 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.
- A person using the Parking Place shall not cause or suffer any animal belonging to him/her or in his/her charge to enter or remain in the Parking Place unless such animal continues to be under proper control and effectively restrained from causing annoyance to any person and from worrying or disturbing any other animal. Where such animal continues to be under proper control and effectively confined within a Vehicle, such Vehicle is to be sufficiently ventilated as to cause no harm or distress to the animal.
- No person shall in a Parking Place drive or cause to be driven any Vehicle onto or over any kerb or verge within the Parking Place.
- No person shall, except with the permission of the Council, drive any Vehicle in a 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 purpose of departing from the Parking Place.
- 27. Any person who contravenes any of the provisions of Articles 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23 and 24 of this Order shall be liable, on summary conviction, to a fine.

PART III - PENALTY CHARGES

NOTICE AND APPLICATION OF PENALTY CHARGES

- 28.1 Where a contravention of Articles 4.1, 4.2, 4.3, 4.4(b), 4.4(c), 4.4(d), 4.4 (f), 4.4(g), 5(a), 5(c), 6.7(2) and 11 of the Order occurs a penalty charge at the higher level specified in column 1 of Schedule 2 shall become due and payable in respect of an offence.
- 28.2 Where a contravention of Articles 4.4(a), 4.4(e), 5(b), 6.1, 6.7(1), 6.8, 6.9, 6.10, 6.11, 7, 10, and 16 of the Order occurs a penalty charge at the lower level specified in column 2 of Schedule 2 shall become due and payable in respect of an offence.
- 28.3 Where a penalty charge is due a Penalty Charge Notice ("PCN") shall either:-
 - (a) be fixed to the vehicle; or
 - (b) given to the person appearing to the Civil Enforcement Officer to be in charge of a vehicle; or
 - (c) served by post on the person appearing to the Enforcement Authority to be the owner of the Vehicle where the Civil Enforcement Officer attempted to serve the PCN but was prevented

from doing so, or had begun to prepare a PCN but the vehicle had been driven away, or where a contravention is recorded on an Approved Device;

28.4 Where a Vehicle remains in a position so as to attract a PCN a further PCN may be issued on each calendar day thereafter.

RESTRICTION ON REMOVAL OF PENALTY CHARGE NOTICE

- 29.1 Where a PCN has been attached to a Vehicle in accordance with the provisions of Article 28.3 of this Order no person other than a Civil Enforcement Officer or some other person duly authorised by the Enforcement Authority or the Driver shall remove the PCN from the Vehicle.
- 29.2 A person contravening Article 29.1 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

MANNER OF PAYMENT OF PENALTY CHARGES

- 30.1 The Owner of a Vehicle in respect of which the penalty charge has been incurred shall pay the penalty charge to the Enforcement Authority in the manner specified in the PCN not later than the end of the twenty-eighth day beginning on the date on which the PCN was served.
- 30.2 If the penalty charge is paid before the expiry of the fourteenth day (or twenty-first day where the PCN is served by post on the basis of evidence from an approved device) beginning on the date the PCN was issued the penalty charge in respect of contraventions of Articles 4.1, 4.2, 4.3, 4.4(b), 4.4(c), 4.4(d), 4.4 (f), 4.4(g), 5(a), 5(c), 6.7(2) and 11 shall be reduced to the sum specified in column 3 of Schedule 2 and for contraventions of

- Articles, 4.4(a), 4.4(e), 5(b), 6.1, 6.7(1), 6.8, 6.9, 6.10, 6.11, 7, 10, and 16 shall be reduced to the sum specified in column 4 of Schedule 2.
- 30.3 If the penalty charge is not paid within twenty-eight days of the PCN being served a Notice to Owner may be served on the person appearing to the Enforcement Authority to be the Owner of the Vehicle at the time of the contravention.
- 30.4 If the penalty charge is not paid:-
 - (1) within twenty-eight days beginning with the date of either:
 - (a) service of the Notice to Owner where no representations are made against such a notice; or
 - (b) service of a notice of rejection by the Enforcement Authority of representations by the Owner and no appeal against the notice of rejection has been made; or
 - (c) notification by the Enforcement Authority to the appellant that it does not accept a recommendation of the appeal adjudicator to cancel the Notice to Owner; or
 - (d) service of a notice by the appeals adjudicator of his decision relating to an unsuccessful appeal; or
 - (2) within fourteen days of the Owner withdrawing his appeal to an adjudicator against a notice of rejection before the adjudicator serves notice of his decision

The Enforcement Authority may serve a Charge Certificate on the Owner to the effect that the penalty charge is increased in respect of contravention of Articles 4.1, 4.2, 4.3, 4.4(b), 4.4(c), 4.4(d), 4.4 (f), 4.4(g), 5(a), 5(c), 6.7(2) and 11 by the amount specified in column 5 of Schedule

2 and in respect of contravention of Articles 4.4(a), 4.4(e), 5(b), 6.1, 6.7(1), 6.8, 6.9, 6.10, 6.11, 7, 10, and 16 by the amount specified in column 6 of Schedule 2.

REPRESENTATIONS AND APPEAL

The Regulations shall apply in relation to this Order in respect of the making and determination of representations and appeals.

PART IV

REMOVING OR ALTERING THE POSITION OF A VEHICLE

- 32.1 A Civil Enforcement Officer or a person authorised in that behalf by the Enforcement Authority or a Police Officer in uniform may alter or cause to be altered the position of a Vehicle in a Parking Place or remove or arrange for the removal of a Vehicle from a Parking Place:
 - (a) for the purpose of meeting the requirement of an emergency; or
 - (b) where the Vehicle is not displaying a valid licence in accordance with the provisions of Section 1 of the Vehicle Excise and Registration Act 1994; or
 - (c) the same Vehicle is subject of three or more contraventions of this Order and the PCN's remain unpaid; or
 - (c) the Vehicle is creating a hazard or an obstruction
- 32.2 Any person removing or altering the position of a Vehicle by virtue of Article 32.1 of this Order may do so by towing or driving the Vehicle or in such other manner as he/she may think necessary and may take such measure or measures in relation to the Vehicle as he/she may deem

necessary to enable him to remove it or alter its position as the case may be.

- 32.3 When a person authorised by the Enforcement Authority removes or makes arrangements for the removal of a Vehicle from a Parking Place by virtue of Article 32.1 of the Order he/she shall make such arrangements as may be reasonably necessary for the safe custody of the Vehicle.
- 32.4 Neither The Council nor the Enforcement Authority (including any person authorised on its behalf) shall be liable for any damage caused or inflicted or any costs, damages, expenses or disbursements incurred by any person in respect of their property as a result of any action that may be taken in accordance with Articles 32.1 and 32.2 of this Order.
- 32.5 Any costs associated with the removal and storage of Vehicles shall be payable by the Owner within twenty-eight days of demand.

Sealed under the hand of the Clerk to the Council. KEPemberton
this day of 25 February 2021
and adopted by Padstow Town Council on 22 December 2020
by Emergacy Scheme of Deligation.
by Emergacy Scheme of Deligation (ref. no. December 01). Noted by Council
at their neeting in 26 January 2021

THE PADSTOW TOWN COUNCIL (OFF-STREET PARKING PLACES) ORDER 2021

SCHEDULE 1

Name of Parking Place Vehicles may wait Vehicles may wait Vehicles may wait Vehicles may wait Where provided, wholly within a Parking Space or as directed by a Parking Attendant or CL215702 – map authorised by The	wait wholly Space a	Permitted classes of Vehicle	Days of	Hours of	Maximum	Scale of	Spacon
	wholly Space a		operation or parking place	operation of parking place	period for which Vehicles may wait	Charges	Ticket
(inclusive of all land marked on Land any restrictions or where Registry title number CL289771 - map appended) been authorised to so park by The Council. All Vehicles parked in a Coach charge	- O -	Motor cars Motor cycles Invalid carriages Coaches (in Coach Bays Only) Motor homes/campers Mini buses	All days	24 hours	Up to 24 hours with appropriate ticket. NB: Coaches restricted to 4 hours with appropriate ticket and Motor homes/campers prohibited between 22.00 and 08.00	(All Hours) 1 Hour £1 2 Hours £3 3 Hours £6 12 Hours £6 12 Hours £8 24 Hours £10 Coaches £8 (up to 4 hours only)	£480.00 – Annual

THE PADSTOW TOWN COUNCIL (OFF-STREET PARKING PLACES) ORDER 2021

SCHEDULE 2

		ii -	
PENALTY CHARGES	91	Lower Level (after service of charge certificate)	<u>575.00</u>
	N)	Higher Level (after service of charge certificate)	£105.00
	41	Lower Level (Paid within 14 days)	£25.00
	က၊	Higher Level (Paid within 14 days)	£35.00
	2	Lower Level Penalty Charge	£50.00
	-1	Higher Level Penalty Charge	<u>£70.00</u>

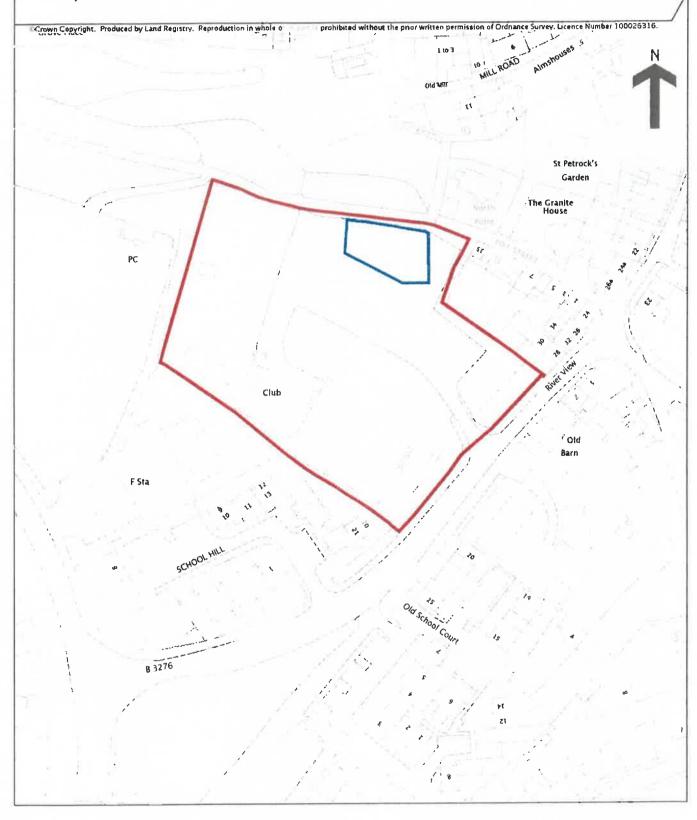
APPENDIX 1

LAWNS CAR PARK – MAP LAND REGISTRY TITLE NUMBER CL215702

Land Registry Official copy of title plan

Title number CL215702 Ordnance Survey map reference SW9175SE Scale 1:1250 Administrative area CORNWALL





APPENDIX 2

RAILWAY CAR PARK – MAP LAND REGISTRY TITLE NUMBER CL289771



This efficient copy lesised on 12 June 2012 shows the state of the plan shows the general position, not the cost line, of the See Lond Region's Public Calde 15 - Tale Plans and Beandanies. Tale title in death with by Lund Registry, Physinatic Office.