THE KENT COUNTY COUNCIL
(A263 MOUNT PLEASANT ROAD AND A263 GROSVENOR ROAD, THE BOROUGH OF TUNBRIDGE WELLS) (BUS GATE & BUS ONLY STREETS) ORDER 2018

ROAD TRAFFIC REGULATION ACT 1984

The Kent County Council acting as the local traffic authority and in exercise of its powers under Sections 1, 2, 3, 4 and 124 of and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984, (hereinafter referred to as 'the Act'), the Traffic Management Act 2004 ('the 2004 Act'), the Bus Lane Contraventions (Penalty Charges, Adjudications and Enforcement) (England) Regulations 2005 ('the 2005 Regulations') and the Bus Lane Contraventions (Approved Local Authorities) (England) Order 2005 made by the Secretary of State for Transport pursuant to Section 144 of the Transport Act 2000 ('the 2000 Act') 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, hereby make the following Order:-

1. PREAMBLE

This Order shall come into force on the 26th day of August 2019 and may be cited as "THE KENT COUNTY COUNCIL (A263 MOUNT PLEASANT ROAD AND A263 GROSVENOR ROAD, THE BOROUGH OF TUNBRIDGE WELLS) (BUS GATE & BUS ONLY STREETS) ORDER 2018 ('this Order')

2. INTERPRETATION and DEFINITIONS

(1) The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament
(2) A reference to an article or schedule followed by a number is a reference to the article of, or schedule to this Order so numbered
(3) In this Order, except where the context requires otherwise, the following expressions shall have the meaning hereby assigned to them:-

"the Council" means The Kent County Council as the traffic authority and, where appropriate, Tunbridge Wells Borough Council acting on behalf of the traffic authority;

"Approved Device" means a device of a description specified in an Order made by the Relevant National Authority pursuant to Section 144 of the 2000 Act and complying with the Bus Lane (Approved Devices) (England) Order 2005;

"Borough Council" means the Tunbridge Wells Borough Council;

"Bus" means a Motor Vehicle constructed or adapted to carry more than 8 passengers (exclusive of driver) and Local Buses not so constructed or adapted to carry more than 8 passengers (exclusive of driver);

"Bus Gate" has the same meaning as Bus Lane;

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"Bus Lane" means an area of Road that may be used only by buses (or a particular description of Bus) and some other class or classes of vehicular traffic as provided for this Order;

"Bus Only Street" has the same meaning as Bus Lane;

"Carriageway" means a way constituting or comprised in a highway being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles;

"Civil Enforcement Area" means an area where civil enforcement of parking restrictions can be undertaken as defined by section 76 of the 2004 Act;

"Civil Enforcement" have the same meanings as in the Road Traffic Regulation Act 1984;

"Civil Enforcement Officer" means a person employed by the Tunbridge Wells Borough Council in pursuance granted by section 76 of the 2004 Act;

"Contravention" means a failure to comply with restrictions set out in this Order that may result in the issue of a Penalty Charge Notice and "Contravening" shall be construed accordingly;

"Cycle" means a Pedal Cycle not being propelled by mechanical power;

"Date of Service" means the last day of the period of 3 consecutive working days beginning with the first day of posting. If the notice is not posted on a working day, the first working day after the date of posting will be the first day of posting;

"Detection Date" means the date on which the Vehicle was detected as Contravening this Order, according to the record produced by an Approved Device;

"Driver" means the person driving the Vehicle at the time of the alleged Contravention of this Order;

"Delivering" and "Collecting" in relation to any Goods, including checking the Goods for the purpose of their Delivery or Collection;

"Electrically Assisted Pedal Cycle" has the same meaning as in section 4 of the Electrically Assisted Pedal Cycle regulations 1983;

"Emergency Services Vehicle "means a Vehicle operated by the police, fire & rescue service or ambulance service;

"Enactment" includes any act, order or regulation made under any act;

"Fixed Penalty Notice" means a notice issued by a person authorised to do so pursuant to the provisions of Part III section 52 of the Road Traffic Offenders Act 1988;

"Footway" means a way constituting or comprised in a highway (other than a cycle track) over which the public have a right of way for the passage of pedestrians;

"Goods" includes postal packets of any description;

"Goods Vehicle" means a Motor Vehicle constructed or adapted for the use for the carriage of goods or burden of any description or a trailer so constructed or adapted;

"Hours of Operation" means the period specified in column 3 of Schedule 1 and being the period during which the restriction applies;

"Junction" means (in the Schedules to this Order) for measurement purposes only, the point where the projected centrelines of two Specified Roads intersect;

"Local Bus" means a public service Vehicle used in provision of a Local Service not being an excursion tour;

"Local Service" has the meaning as in section 2 of the Transport Act 1985;

"Motor Cycle" and "Motor Vehicle" have the meanings ascribed in Section 136 of the Act;

"Offence" means a failure to comply with restrictions set out in this Order that may result in the issue of a Fixed Penalty Notice;

"Owner" in relation to a Vehicle, means the registered keeper of that Vehicle, namely the person for the time being shown in the register kept in accordance with Section 21 of the Vehicle Excise and Registration Act 1994;

"Pedal Cycle" has the same meaning as in Section 4 of the Traffic Signs Regulations and General Directions 2002;

"Penalty Charge" and "Reduced Penalty Charge" means a charge set out by the Council under regulation 4 of the 2005 Regulations and with the approval of the Secretary of State for Transport which is to be paid to the Council within 28 days beginning with the date of the notice, or 14 days in the case of a Reduced Penalty Charge, following the issue of a Penalty Charge Notice;

"Penalty Charge Notice" has the meaning as set out in Regulation 8 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007;

"Private Driveway" means the vehicular access/egress to a private property;

"Public Highway" means a highway to which the public have unrestricted access;

"Relevant National Authority" means the Secretary of State in respect to England;

"Relevant Particulars" means particulars relating to the identity of the keeper of the vehicle contained in the register of mechanically propelled vehicles;

"Road Marking" means a line or mark or legend on the surface of the road of a size, colour and type prescribed or authorised under Section 64 of the Act;

"Road" means the full width - including any footway or verge – of any length of highway or of any other road to which the public has access, and includes bridges over which a road passes;

"Security Vehicle" means a Vehicle specially adapted to securely convey cash, bullion or valuables and marked with the name of the security company;

"Statutory Grounds" means grounds for appeal as defined in regulation 9(2) of the 2005 Regulations;

"Specified Road" means the Road or Roads Specified in the Schedules to this Order;

"Taxi" has the same meaning as in Section 38 of the Town Police Clauses Act 1847 (for the avoidance of doubt this does not include a private hire vehicle within the meaning of Section 80 of the Local Government (Miscellaneous Provisions) Act 1976;

"Traffic Signs Regulations and General Directions" means the Traffic Signs Regulations and General Directions 2016 as amended from time to time;

"Traffic Sign" means a sign of a size, colour and type prescribed or authorised under, or having an effect as though prescribed or authorised under, Section 64 of the Act;

"Undertaker" has the meaning as in Section 48 of The New Roads and Street Works Act 1991;

"Universal Postal Service Provider" and "Postal Packets" has the same meaning as in the Postal Services Act 2011;

"Vehicle" means a Motor Vehicle or a 'trailer' and 'Motor Vehicle' and 'trailer' have the same meaning as in Section 136 of the Act;

3. RESTRICTIONS IMPOSED

(1) The restrictions and prohibitions imposed by this Order are in addition to and not in derogation of any restriction, prohibition or requirement imposed by any other Enactment and any exception from the provision of this Order is without prejudice to the provisions of any Enactment.
(2) Unless otherwise stated all restrictions specified in this Order shall be deemed to apply to the whole of the Carriageway as defined by and at the Specified Roads.
(3) No person shall cause or permit a Vehicle to enter, be in or proceed on any length of road specified in Schedules 1 and 2 of this Order during the times specified in

column 3 of that item unless that Vehicle is of a type specified in Article 4 of this Order.

4. EXEMPTIONS TO THE ORDER

1. Nothing in Article 3 of this Order shall apply

(1) It shall not be a Contravention to cause or permit any Vehicle to enter, be in or proceed on any lengths of Specified Roads provided that:-

I. on any occasion when it is being used in an emergency for the fire brigade, ambulance or police purposes, if the observance of that provision would be likely to hinder the use of that Vehicle for the purposes for which it is being used on that occasion.

II. the Vehicle has been authorised by the Highway Authority to undertake essential maintenance works.

III. the Vehicle is a Bus or Local Bus.

IV. the Vehicle is a Pedal Cycle, Electrically Assisted Pedal Cycle or Cycle.

V. the Vehicle is a Taxi.

VI. the Vehicle is being used for enforcement purposes by, or on behalf of the Council.

VII. It is under the direction or with the permission of a police constable in uniform or such other persons in uniform appointed for that purpose by the Chief Constable of Kent.

VIII. It is necessary to do so to avoid an accident.

IX. the Vehicle is in the service of a Universal Postal Service Provider, is marked as such and being used to Deliver or Collect postal packets as defined in section 27 of the Postal Services Act 2011;

X. is a Goods Vehicle and is being used for the conveyance of Goods or merchandise to or from any premises situated on those Specified Roads or to The Priory;

XI. the Vehicle is a Security Vehicle being used for the Collection or Delivery of cash or bullion to or from the bank, building society or business premises in or adjacent to the Specified Roads by this Order;

XII. the Vehicle is being used in connection with the removal of an obstruction to the Bus Gate or Bus Only Street.

XIII. the Vehicle is being used for public cleansing for or on behalf of the Council if it is reasonably necessary for that Vehicle to enter or proceed through the Bus Gate or Bus Only Street.

XIV. the Vehicle is being used to remove refuse or waste if it is reasonably necessary for that Vehicle to enter or pass through the Bus Gate or Bus Only Street.

XV. the Vehicle is being used in connection with any building operation, demolition or excavation in or adjacent to the Bus Gate or Bus Only Street if it is reasonably necessary for that Vehicle to enter or proceed through the Bus Gate or Bus Only Street.

XVI. the Vehicle is being used in connection with the maintenance, improvement or reconstruction of any part of the Carriageway over which the Bus Gate or Bus Only Street passes or adjoins provided it is reasonably necessary for that Vehicle to enter or proceed through the Bus Gate or Bus Only Street.

XVII. the Vehicle is being used by any Undertaker to carry out work relating to any pipe, cable, sewer or apparatus in, on or over that Road provided it is reasonably

necessary for that Vehicle to enter or proceed through the Bus Gate or Bus Only Street.

XVIII. the Vehicle is being used in connection with the placing, maintenance or removal of any Traffic Sign, bus stop, bus shelter and notices or other things attached thereto provided that it is reasonably necessary for that Vehicle to enter or proceed through the Bus Gate or Bus Only Street.

XIX. the Vehicle requires access to The Priory.

5. CONTRAVENTIONS AND ENFORCEMENT OF RESTRICTIONS IMPOSED BY THIS ORDER

(1) The Council will carry out Civil Enforcement of any Contravention of any prohibitions, restrictions or provisions of the Order by permitting the imposition of a Penalty Charge only on the basis of a record produced by the means of an Approved Device.

(2) Where the Council has reason to believe that a Penalty Charge is payable in relation to a Vehicle which has contravened this Order, the Council will serve a Penalty Charge Notice on the person appearing to be the owner or keeper of the Vehicle or, the person appearing to be liable to pay the charge.

(3) A Penalty Charge Notice shall be served before the end of the period of 28 days beginning with the Detection Date. The Council shall continue to be entitled to serve a Penalty Charge Notice during a further period of six months, beginning with the Detection Date, provided that:-

(a) the Council has made a request within 14 days of the Detection Date to the Relevant National Authority for the supply of Relevant Particulars, and

(b) those particulars have not been supplied before the date after which the Council would not be entitled to serve a Penalty Charge Notice by virtue of this Order.

(4) If a vehicle owner, keeper or driver contravenes any prohibitions or restrictions of this Order, the Penalty Charge is to be paid in the manner described in the notice within 28 days of the Date of Service of the Penalty Charge Notice or within 14 days of the Date of Service of the Penalty Charge Notice in the case of a Reduced Penalty Charge.

(5) When the Owner, keeper or Driver has been identified, the Council will issue a Penalty Charge Notice in accordance with this Order and send the Penalty Charge Notice by first class post.

(6) A Penalty Charge Notice must state:-

(a) The registration mark of the Vehicle or, where the Vehicle is being used under a trade licence, the number of the trade plate carried by the Vehicle involved in the alleged Contravention;

(b) The date and time at which the authorised officer first noticed that a Contravention had occurred;

(c) The grounds on which the authorised officer believes that a Penalty Charge is payable with respect to that Vehicle;

(d) That the Penalty Charge must be paid before the end of the period of 28 days beginning with the Date of Service;

(e) That if the Penalty Charge is paid before the end of the period of 14 days beginning with the Date of Service of the Penalty Charge Notice, a reduced penalty charge shall apply;
(f) That representations may be made on any of the Statutory Grounds of appeal to the Council against the imposition of the Penalty Charge but that representations made outside the 28 days period may be disregarded;
(g) What the Statutory Grounds of appeal are;
(h) The postal address to which representations are to be sent;
(i) Any electronic mail address or FAX number to which representations may be sent as an alternative to the postal address;
(j) That, if the Penalty Charge is not paid and no representations have been made before the end of the 28 days period from the Date of Service, the Council may increase the Penalty Charge by half and take steps to enforce payment of the charge as so increased;
(k) The manner in which the Penalty Charge may be paid;
(l) That if representations are rejected by the Council, an appeal may be made on any of the Statutory Grounds to an adjudicator in respect of a Penalty Charge;
(m) The recipient of the Penalty Charge Notice may, by notice in writing to the Council, request that an office be made available during normal office hours as specified on the Penalty Charge Notice, for the purpose of viewing by him free of charge and by his representative (if any), the recording of the alleged contravention produced by the Approved Device pursuant to which the Penalty Charge Notice was imposed and/or to provide him with still images from that recording which, in the Council's opinion, establish the contravention;
(n) The date of issue, being the date on which the Penalty Charge Notice was produced by the Council;
(o) The address to which payment of the Penalty Charge must be sent.

(7) Where a police officer in uniform is satisfied that a Driver's Contravention is liable to a Fixed Penalty Notice Contravention, a police officer may issue such a notice at the time and date of the alleged offence to the Driver, which shall include the particulars listed in section 52 of the Road Traffic Offenders Act 1988.

(8) Where the Owner, keeper or Driver that was issued a Fixed Penalty Notice or a summons for the same day and time for the same Contravention by a police officer, the Council shall no longer proceed with its Penalty Charge Notice or where the Penalty Charge Notice was paid in accordance with this Order, the amount that was paid will be refunded in full as soon as reasonably practicable.

6. REVOCATIONS

(1) The following orders are revoked to the extent specified and will have effect from the 26th day of August 2019.

ORDER	EXTENT
THE KENT COUNTY COUNCIL (A263 MOUNT PLEASANT ROAD AND A263 GROSVENOR ROAD, TUNBRIDGE WELLS) (BUS GATE & BUS ONLY STREETS) ORDER 2014	In its entirety.
THE KENT COUNTY COUNCIL (A263 MOUNT PLEASANT ROAD, A263 GROSVENOR ROAD, A26 ST. JOHNS ROAD, TUNBRIDGE WELLS AND A26 LONDON ROAD, SOUTHBOROUGH) (CYCLE AND BUS LANES) ORDER 2013	That part of the A263 Mount Pleasant Road, Tunbridge Wells (west side) between a point 63m south of its Junction with Monson Road and its Junction with Calverley Road, as defined in Schedule 1 of that order.

Given under the Common seal of the Kent County Council

This 19th day of August 2019

THE COMMON SEAL OF
THE KENT COUNTY COUNCIL
was hereunto affixed in the presence of: -

Authorised signatory

SCHEDULES

SCHEDULE 1 – BUS GATE

1. Road Name	2. Specified Road	3. Hours of Restriction
A263 Mount Pleasant Road, Tunbridge Wells	West side – between its junction with Monson Road and a point 15 metres north of that junction.	9am to 6pm

SCHEDULE 2 – BUS ONLY STREET

1. Road Name	2. Specified Road	3. Hours of Restriction
A263 Mount Pleasant Road, Tunbridge Wells	Both sides – between its junction with York Road and its junction with Crescent Road and Church Road.	9am to 6pm
A263 Mount Pleasant Road, Tunbridge Wells	Both sides – between its junction with Grosvenor Road and its junction with Newton Road.	9am to 6pm
A263 Grosvenor Road, Tunbridge Wells	Both sides – between its junction with Goods Station Road and its junction with Mount Pleasant Road.	9am to 6pm