

APPENDIX A

DRAFT PROPOSAL ONLY

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014, SECTION 59

PUBLIC SPACE PROTECTION ORDER

This Order is made by Lichfield District Council (the 'Council') and shall be known as the Public Spaces Protection Order (Dog Control) 2020.

PRELIMINARY

1. The Council, in making this Order, is satisfied on reasonable grounds that the activities identified below have been carried out in public places within the Council's area and have had a detrimental effect on the quality of life of those in the locality. Further, that the effect, or likely effect, of the activities is, or is likely to be:
 - Of a persistent or continuing nature;
 - such as to make the activities unreasonable;
 - and justifies the restrictions imposed by the Notice.
2. The Council is satisfied that the prohibitions imposed by this Order are reasonable to impose in order to prevent the detrimental effect of these activities from continuing, occurring or recurring, or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
3. The Council has had particular regard to the rights and freedoms set out in Article 10 (right of freedom of expression) and Article 11 (right of freedom of assembly) of the European Convention on Human Rights and has concluded that the restrictions on such rights and freedoms imposed by this Order are lawful, necessary and proportionate.

THE ACTIVITIES

4. The Activities covered by the Order are:
 - Dog Fouling
 - Exclusion of dogs from specified areas

DOG FOULING

5. A person in charge of a dog in any public place within the area of Lichfield District Council (excluding land shown in Schedule X) must forthwith clear up and remove any faeces deposited by the dog and either take away the faeces or place the faeces in a general litter or dog waste bin.
6. A person in charge of a dog in any public place within the area of Lichfield District Council must have with them an appropriate means to pick up dog faeces that may be deposited by that dog. The obligation is complied with if, after request from an authorised officer, the person in charge of the dog produces an appropriate means to pick up dog faeces from their person.

DOG CONTROL

7. A person in charge of a dog in a public place within the area of Lichfield District Council is prohibited from allowing the dog to enter the “Dog Exclusion Zones” which include children’s play areas listed in Schedule X.

EXCEPTION

8. Nothing in this Order shall apply to a person who:
- Is registered as a blind person on a register compiled under section 29 of the National Assistance Act 1948;
 - is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance;
 - has a physical or mental impairment which has a substantial and long term adverse effect on the ability to carry out normal day to day activities, in respect of a dog trained by any current or future member of Assistance Dogs UK or any other charity registered in the UK with a purpose of training assistance dogs and upon which he relies for assistance; or
 - has a physical or mental impairment which has a substantial and long term adverse effect on the ability to carry out normal day to day activities and, in the reasonable opinion of the Council that person relies upon the assistance of the dog in connection with their disability.

NOTE

9. For the purposes of this Order:
- A person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless, at the time of the offence, some other person is in charge of the dog;
 - being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device or other suitable means of removing the faeces, shall not be a reasonable excuse for failing to remove the faeces;
 - the administrative area of Lichfield District Council is shown in Schedule X;
 - a person duly authorised by the Council means an employee, partnership agency or contractor of Lichfield District Council who is authorised in writing by Lichfield District Council for the purpose of enforcing the Order.

PERIOD FOR WHICH THE ORDER HAS EFFECT

10. This Order will come into force at midnight on XXXXXXXXX 2020 and will expire at midnight on XXXXXXXXX 2023.
11. At any point before the expiry of this three year period the Council can extend the Order by up to three years if they are satisfied on reasonable grounds that this is necessary to prevent the activities identified in the Order from occurring or recurring or to prevent an increase in the frequency or seriousness of those activities after that time.

WHAT HAPPENS IF YOU FAIL TO COMPLY WITH THIS ORDER?

12. Section 67 of the Anti-social Behaviour, Crime and Policing Act 2014 says that it is a criminal offence for a person without reasonable excuse to:

- Do anything that the person is prohibited from doing by a Public Space Protection Order; or
 - Fail to comply with a requirement to which the person is subject under a Public Space Protection Order.
13. A person guilty of an offence under section 67 is liable on conviction in the Magistrates Court to a fine not exceeding level 3 on the standard scale.

FIXED PENALTY

14. A Constable, Police Community Support Officer or Authorised Officer of the Council may issue a fixed penalty notice to anyone he or she believes has committed an offence under section 67 of the Anti-social Behaviour, Crime and Policing Act. You will have 14 days to pay the fixed penalty of £X. If you pay the fixed penalty within 14 days you will not be prosecuted.

APPEALS

15. Any challenge to this Order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the power to challenge. The right to challenge also exists where an Order is varied by the Council.
16. An interested person can challenge the validity of this Order on two grounds:
- That the Council did not have power to make the Order or to include particular prohibitions or requirements; or
 - that one of the requirements of the legislation has not been complied with.
17. When an application is made, the High Court can decide to suspend the operation of the Order pending the Court's decision, in part or in totality. The High Court has the ability to uphold the Order, quash it, or vary it.

DATED: XXXXXXXXXXXXXXXX 2020

The Common Seal of

Lichfield District Council

Was affixed in the presence of:

Authorised Signatory

Authorised Signatory