

# **ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT**

## **2014 SECTION 59**

### **PUBLIC SPACES PROTECTION ORDER**

This order is made by Dacorum Borough Council (the 'Council') under the Anti-Social Behaviour, Crime and Policing Act 2014, Section 59 ("The Act") and shall be known as the Public Space Protection Order (Consumption of Alcohol) 2021.

#### **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,

and that:

the effect, or likely effect, of the activities:

is, or is likely to be, of a persistent or continuing nature,

is, or is likely to be, 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 prohibited by the Order are:
- i) Consuming intoxicating liquor in a public place and acting in a manner that is causing or is likely to cause alarm or distress; and/or
  - ii) Being in possession of an open vessel(s) of intoxicating liquor in a public place.

## THE PROHIBITION

5. A person shall not engage in any of the Activities in 4 above anywhere within the areas shown shaded red on the attached maps at Appendix 1 ("the restricted area").
6. Any person who without reasonable excuse continues drinking alcohol in the restricted area when asked to desist by a police officer, Police Community Support Officer or authorised person from the Council under Section 63 of the Act or fails to surrender any intoxicating liquor in their possession when asked to do so by a Police Officer, Police Community Support Officer or authorised person from the Council under section 63 of the Act commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale in Appendix B (currently £500) or in the receipt of a fixed penalty notice to a penalty of a maximum of £100.

## EXCEPTION

7. The prohibition of the Activity specified in 4 shall not apply to:-
- (1) (a) premises (other than council-operated licensed premises) authorised by a premises licence to be used for the supply of alcohol;
- (b) premises authorised by a club premises certificate to be used by the club for the supply of alcohol;
- (c) a place within the curtilage of premises within paragraph 7(1)(a) or 7(1)(b);
- (d) premises which by virtue of Part 5 of the Licensing Act 2003 may at the relevant time be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the 30 minutes before that time;

(e) a place where facilities or activities relating to the sale or consumption of alcohol are at the relevant time permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (highway-related uses).

(2) Council-operated licensed premises—

(a) when the premises are being used for the supply of alcohol, or

(b) within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.

(3) In this Article—

*"club premises certificate"* has the meaning given by section 60 of the Licensing Act 2003;

*"premises licence"* has the meaning given by section 11 of that Act;

*"supply of alcohol"* has the meaning given by section 14 of that Act.

(4) For the purposes of this Article, premises are "council-operated licensed premises" if they are authorised by a premises licence to be used for the supply of alcohol and—

(a) the licence is held by a local authority in whose area the premises (or part of the premises) are situated, or

(b) the licence is held by another person but the premises are occupied by a local authority or are managed by or on behalf of a local authority.

## **PERIOD FOR WHICH THIS ORDER HAS EFFECT**

8. This Order will come into force at midnight on 12<sup>th</sup> April 2021 and will expire at 11.59pm on 11<sup>th</sup> April 2024.

9. 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.

## **APPEALS**

10. 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.

11. Interested persons 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.

12. 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: 7<sup>th</sup> April 2021

The Common Seal of  
Dacorum Borough  
Council was affixed in the  
presence of:



Authorised Signatory

**Mark Brookes**  
Assistant Director  
Corporate and Contracted Services

Authorised Signatory

JACQUELINE HUTTON

Legal Governance Team Leader.