



Broxtowe Borough COUNCIL

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

SECTION 59 PUBLIC SPACES PROTECTION ORDER

THE BROXTOWE BOROUGH COUNCIL BASIL RUSSELL PLAYING FIELDS, NUTHALL PUBLIC SPACES PROTECTION ORDER

THIS ORDER is made by Broxtowe Borough Council (“the Authority”) because the Authority is satisfied on reasonable grounds that activities carried out or likely to be carried out in a public space:

- Have had or are likely to have a detrimental effect on the quality of life of those in the locality;
- Are or are likely to be, of a persistent or continuing nature;
- Are or are likely to be unreasonable; and
- Justify the restrictions imposed.

Namely the area of Basil Russell Playing Fields in Nuthall within the area delineated in red on the attached plan being the “Restricted Area”

The Authority is satisfied that the following activities have been or are likely to be carried out in the public space:

DOG FOULING AND DOG CONTROL

1. RESTRICTIONS/REQUIRMENTS:

Subject to the exceptions at Schedule One or consent by the landowner having been given to the person in charge of the dog the following will be a breach of this Order:

1. Dog fouling

If a dog defecates at any time in the Restricted Area and the person who is in charge of the dog at the time fails to remove the faeces from the land forthwith, that person shall be in breach of this Order.

2. Dogs on leads

A person in charge of a dog in the Restricted Area shall be in breach of this Order, if without reasonable excuse that person fails to keep the dog on a lead.

3. Exclusion of dogs

A person in charge of a dog shall be in breach of this Order if, at any time, they take the dog onto, or permit the dog to enter, or to remain on, any land comprising the children's play area within the Restricted Area and shown hatched on the plan.

For the purpose 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 that time some other person is in charge of the dog.

Placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be sufficient removal from the land.

Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.

2. PERIOD FOR WHICH THE ORDER HAS EFFECT

This order will come into force on [START DATE] and lasts until [END DATE (not more than three years)]

At any point before the expiry of this period the Authority 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.

3. WHAT HAPPENS IF YOU FAIL TO COMPLY WITH THIS ORDER?

Under s.67 of the Anti-social Behaviour Crime and Policing Act 2014 it is an offence for a person without reasonable excuse, to do anything prohibited by this Order or fail to comply with a requirement of this Order.

A person guilty of an offence under s.67 of the Anti-social Behaviour Crime and Policing Act 2014 is liable on summary conviction to a fine not exceeding level three on the standard scale, up to £1,000 at the time this Order came into force.

The effects of s.67 of the Anti-social Behaviour Crime and Policing Act 2014 are appended to this Order.

4. FIXED PENALTY

A constable or authorised person may issue a fixed penalty notice to anyone he or she believes has committed an offence. You will have 21 days to pay the fixed penalty of £75. If you pay the fixed penalty in less than 14 days this will be reduced to £50. Payment of a fixed penalty within the aforementioned time frames discharges liability for the offence and you will not be prosecuted.

5. VALIDITY OF ORDERS

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 Authority.

Interested persons can challenge the validity of this order on two grounds: that the Authority did not have power to make the order, or to include particular prohibitions or requirements; or that one of the requirements of the legislation, for instance consultation, has not been complied with.

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.....

The Common Seal of
BROXTOWE BOROUGH COUNCIL
was affixed in the presence of :-

Proper Officer

Name: _____

Position: _____

Section 67 Anti-Social Behaviour Crime and Policing Act 2014

- (1) It is an offence for a person without reasonable excuse-
 - (a) To do anything that the person is prohibited from doing by a public spaces protection order, or
 - (b) To fail to comply with a requirement to which a person is subject under a public spaces protection order
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale
- (3) A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order
- (4) Consuming alcohol in breach of a public spaces protection order is not an offence under this section (but see section 63)

SCHEDULE ONE THE EXCEPTIONS

- (a) This Order shall not apply to a person who:
- i. is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
 - ii. is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which they rely for assistance; or
 - iii. who 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 including affecting their mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects in respect of a dog trained by a Prescribed Charity or such other charity/approved body as is considered appropriate by the Authority and upon which they rely for assistance; or
 - iv. is training an assistance dog for one of the Prescribed Charities or such other charity/approved body as is considered appropriate by the Authority; or
 - v. is not a person falling within the criteria mentioned in paragraphs i to iv above but who the Authority considers should be exempt due to the impairment of that particular person.
- (b) Nothing in the Order shall apply to the normal activities of a working dog whilst the dog is working. This includes dogs that are being used for work in connection with emergency search and rescue, law enforcement and the work of HM Armed Forces.
- (c) Each of the following is a “Prescribed Charity”:
- i. Dogs for the Disabled (registered charity number 700454);
 - ii. Support Dogs (registered charity number 1088281);
 - iii. Canine Partners for Independence (registered charity number 803680).