

SWINDON BOROUGH COUNCIL

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

BOROUGH WIDE, SWINDON

PUBLIC SPACES PROTECTION ORDER 2017

This Order is made by Swindon 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 Spaces Protection Order (Borough Wide) 2 of 2018".

1. This Order relates to all public land which is within the administrative area of the Borough of Swindon, being public space in the Borough of Swindon to which the Act applies ("the Restricted Area")

PRELIMINARY

2. The Council, in making this Order is satisfied on reasonable grounds that:
 - a. 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
 - b. That the effect, or likely effect, of the activities:
 - i. is, or is likely to be, of a persistent or continuing nature,
 - ii. is, or is likely to be, such as to make the activities unreasonable, andjustifies the restrictions imposed by the notice.
3. 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.
4. 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.

BY THIS ORDER

5. The effect of this Order is to impose the following requirement and prohibition at all times:-

1. Dog Fouling

If a dog defecates at any time on land to which this Order applies a person who is in charge of the dog shall remove the faeces from the land forthwith unless subject to the exemptions listed in Appendix 1 below.

2. Dogs Prohibited

A person in charge of a dog shall not take the dog on to, or permit the dog to enter or to remain on, any land to which this Order applies unless subject to the exemptions listed in Appendix 1 below.

Prohibition 2 applies to all publicly accessible land within the administrative area of the Borough of Swindon on which is situated any securely fenced (and/or hedged and/or walled) children's play area;

6. In the restricted area any person who fails to comply with Requirement 1 in respect of dog fouling or carries out the activity prohibited by prohibition 2 commits an offence unless he has a reasonable excuse.
7. The Order comes into force on the day it is made and will remain in force for a period of 3 years from the date of this Order, unless extended by further Orders under the Council's statutory powers.

WHAT HAPPENS IF YOU FAIL TO COMPLY WITH THIS ORDER?

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 –

- (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 the person is subject under a public spaces protection order

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 (currently £1000). A person guilty of an offence under section 63 is liable on conviction in the Magistrates Court to a fine not exceeding level 2 on the standard scale (currently £500). The full text of sections 67 and 63 is set out at the end of this document.

FIXED PENALTY

A constable, police community support officer or borough council enforcement officer 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. If you pay the fixed penalty of £100 in less than 14 days you will not be prosecuted.

APPEALS

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.

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, 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.

List of Appendices:

Appendix One: List of exemptions

APPENDIX ONE

Exemptions

Nothing in Requirements 1 and 2 (Fouling of Land and exclusion) shall apply to a person who:

(a) is registered as a sight impaired or severely sight impaired adult in a register compiled under section 77 of the Care Act 2014; or

(b) has a disability which affects his 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 and upon which he relies for assistance.

(c) the authority having control of the land has consented (generally or specifically) to his doing so.

In addition, nothing in requirement 2 shall apply to a person who 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, or to a person who is accompanied by a trained support or assistance dog.

THE COMMON SEAL of SWINDON BOROUGH COUNCIL

Was on the 1st March 2018 hereby affixed in the presence of:-

Stephen Taylor

Director of Law and
Democratic Services
Swindon Borough Council

Text of 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