

# Public Document Pack

**Date of meeting** Tuesday, 22nd January, 2019  
**Time** 7.00 pm  
**Venue** Astley Room - Castle House  
**Contact** Geoff Durham 742222



**NEWCASTLE  
UNDER LYME**  
**BOROUGH COUNCIL**

Castle House  
Barracks Road  
Newcastle-under-Lyme  
Staffordshire  
ST5 1BL

## Licensing & Public Protection Committee

### SUPPLEMENTARY AGENDA

#### PART 1 – OPEN AGENDA

7a PUBLIC SPACE PROTECTION ORDERS

(Pages 3 - 18)

**Members:** Councillors J. Cooper, S. Dymond, T. Johnson, T. Kearon, M. Olszewski (Chair), A. Parker, K. Robinson, S. Sweeney, J Tagg, J. Walklate, J Waring, S White (Vice-Chair), G Williams, J Williams and R. Wright

**Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.**

**Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.**

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

**NOTE:** THERE ARE NO FIRE DRILLS PLANNED FOR THIS EVENING SO IF THE FIRE ALARM DOES SOUND, PLEASE LEAVE THE BUILDING IMMEDIATELY THROUGH THE FIRE EXIT DOORS.

ON EXITING THE BUILDING, PLEASE ASSEMBLE AT THE FRONT OF THE BUILDING BY THE STATUE OF QUEEN VICTORIA. DO NOT RE-ENTER THE BUILDING UNTIL ADVISED TO DO SO.

This page is intentionally left blank

## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### Report for Public Protection and Licensing Committee – January 2019

**Title:** Public Space Protection Order Public Consultation Update

**Submitted by:** Trevor Smith, Partnerships Interventions Officer

**Portfolios:** Community Safety and Wellbeing

**Ward(s) affected:** All

#### **Purpose of the Report**

This report is to;

Ask the Public Protection and Licensing Committee to:

- Support a full public consultation in order to address incidents of Anti-Social Behaviour and other issues which affect the Queen Elizabeth Park and Newcastle Town Centre areas.
- Support the publication of two draft Public Space Protection Orders (PSPOs) in Newcastle Town Centre and Queen Elizabeth Park for comments and feedback from the public.

#### **Recommendations**

That Public Protection and Licensing Committee notes the content of this report and supports the Council in undertaking a full public PSPO consultation on Newcastle Town Centre and Queen Elizabeth Park and allow the publication of the two draft Orders (see Appendix 1 & 2) for public comment and feedback.

#### **Reasons**

- Our initial PSPO proposals focused on Anti-Social Behaviour (ASB).
- As we have moved forward we have developed a much more detailed understanding of the situation impacting on our Town Centre.
- Further consultation has identified growing concerns on aggressive and persistent begging and the need for more targeted orders.
- As a result we intend to develop our PSPO to reflect concerns voiced in previous consultations and the need for two bespoke orders on two specific locations – Town Centre and Queen Elizabeth Park.
- Because of this we have been advised we need a new legal process for an enhanced PSPO.
- For this to be legally binding we need to carry out a consultation on the revised and enhanced PSPO.
- This will go some way to meeting our corporate priority commitment around Town Centres.

## **1 Background**

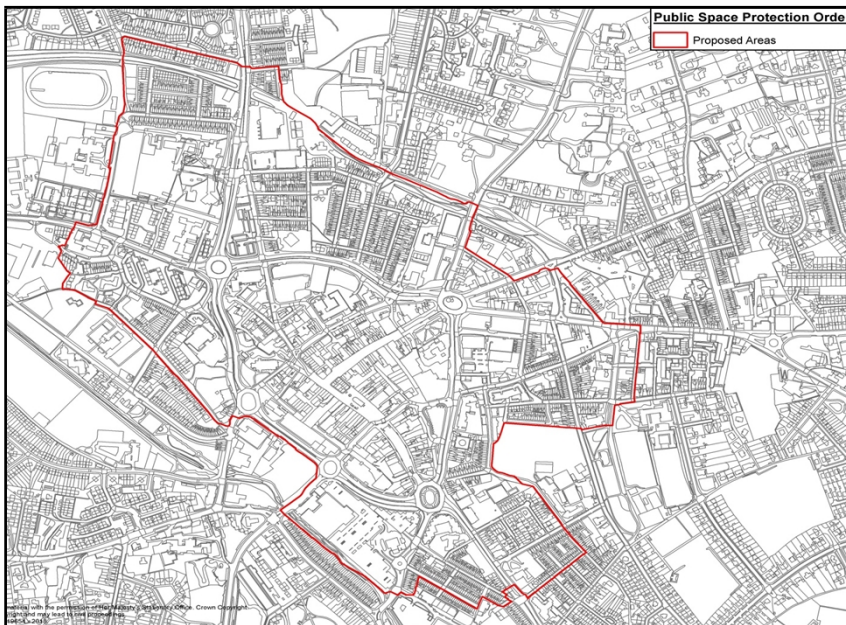
- 1.1 A Public Space Protection Order is an order made under the Anti-Social Behaviour, Crime and Policing Act 2014 whereby this legislation allows for an order to identify a particular space or area to which it will be applied; and can make requirements, or prohibitions, or both within that space or area. This means that the Local Authority can, by virtue of the order, require people to do, or not to do specific things in that space or area. The Local Authority has the powers to grant the prohibitions/requirements where it believes that they are reasonable in order to reduce or prevent the unwanted issues. The order can be applied to specific people or everyone within an area and can apply at all times or within specific times. The order can apply for a maximum of 3 years upon which the process of reviews and consultation must be repeated to check whether the issues are still occurring and the order is having the required effect. After the initial 3 years, the order can be extended for a further 3 years, and upon further reviews and consultation, can be extended more than once for further periods of 3 years.
- 1.2 Failure to comply with either a prohibition, or requirement stated within the order is an Level 3 offence. Upon summary conviction (offences heard within the Magistrates Court) defendants can face a fine. The defendant cannot be found guilty of an offence under a prohibition/requirement where the Local Authority did not have the power to include it in the order. The authority has the option to either prosecute or issue an FPN to discharge liability to convict (s67 & 68 of the ASB, Crime and Policing act).
- 1.3 In December 2016, following a public consultation, Cabinet gave approval to establish a number of PSPO conditions under the ASB, Crime and Policing Act 2014, within specified boundaries of Newcastle-under-Lyme Town Centre. In February 2017 a number of signs stipulating these conditions were situated in and around Newcastle Town Centre and a consultation exercise was carried out with both internal and external partners and members of the public. Following this consultation the main issues in Newcastle-under-Lyme Town Centre were highlighted as street drinking, drug taking, begging, general anti-social behaviour and car cruising. As part of this consultation the boundary for the exclusion zones whereby the PSPO would be enforced were determined. This location included the Councils previous Alcohol Prohibition Zones (APZ's) and extended streets and Queen Elizabeth Park. At the Public Protection Committee on 31st July 2018 an Officer from the Partnerships Team presented a report requesting the Public Protection Committee to approve the inclusion of persistent and aggressive begging in the PSPO conditions along with the original ones presented, this was approved at the same given meeting.

## **2. Recommendations**

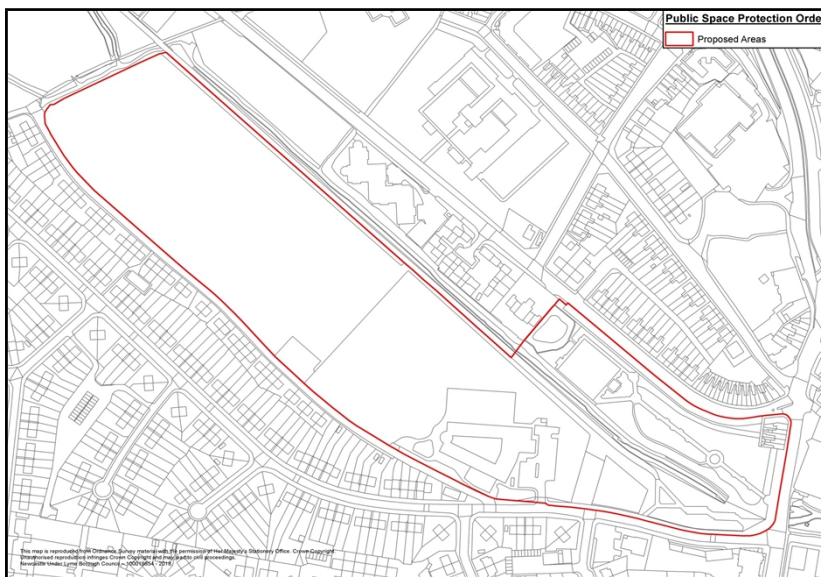
- 2.1 That the Public Protection and Licensing Committee notes the content of this report and supports the Borough Council in undertaking a full PSPO consultation on Newcastle Town Centre & Queen Elizabeth Park and allow the publication of the two draft Orders (see Appendix 1 & 2) for public comment and feedback. Feedback from the public consultation will be brought back to the Public Protection and Licensing Committee for further discussion and agreement on next steps.

## **3. PSPO boundaries**

- 3.1 The following maps depict the boundaries of the proposed two areas which the public consultation will focus on.
- 3.2 Area of Newcastle Town Centre



### 3.3 Area of Queen Elizabeth Park



## 4. Outcomes Linked to Corporate Priorities

- 4.1 The Council Plan 2018-2022 outlines a priority to commit to provide a healthy, active and safe Borough and pledges to ensure that everyone is able to enjoy a safe environment, and have access to a wide range of facilities and activities to support residents and visitors to improve their health and quality of life. As a borough we have a vibrant town centre and we have a priority to provide a town where everyone can live, work, shop, study and spend their leisure time whilst feeling safe. To achieve the Council's priorities PSPO's can be utilised in building on our work with Police and partners to reduce anti-social behaviour and fear of crime in our communities.

## 5. Legal and Statutory Implications

- 5.1 PSPO's can be challenged on the grounds that the Local Authority, under the legislation, did not follow due diligence, not had the power either to make or vary the

order or include particular prohibitions or requirements, or that proper processes had not been followed (as prescribed by the legislation). Undertaking a full consultation would ensure that the Local Authority has followed due diligence and is fully transparent in its processes.

## **6. Equality Impact Assessment**

- 6.1 An Equality Risk Assessment was completed in March 2016 detailing how PSPO's will affect disadvantaged and vulnerable individuals such as dependent street drinkers, rough sleepers and beggars.

## **7. Financial and Resource Implications**

- 7.1 There are minimal financial and resource implications in running a full public consultation.

## **8. Earlier Cabinet/Committee Resolutions**

- 8.1 In December 2016 the report 'Public Space Protection Orders' was submitted to Cabinet and Officers were given permission to make a PSPO for Newcastle Town Centre.
- 8.2 In June 2018 the Anti-Social Behaviour Policy report was approved by Cabinet.
- 8.3 In July 2018 the report 'Public Space Protection Orders review' was approved by Cabinet.
- 8.4 In July 2018 the report 'Public Space Protection Orders variation' was approved in principle by the Public Protection Committee.

## **9. List of Appendices**

- 9.1 Appendix 1: Public Space Protection Order - Newcastle Town Centre
- 9.2 Appendix 2: Public Space Protection Order – Queen Elizabeth Park

## **10. Background Papers**

- 10.1 None

## **NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

### **ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**

#### **PUBLIC SPACE PROTECTION ORDER NUMBER 1 OF 2018 (the "ORDER")**

##### **AREA OF NEWCASTLE-UNDER-LYME TOWN CENTRE**

THIS ORDER may be cited as Newcastle-under-Lyme Borough Council, Public Spaces Protection Order Number of 2018.

Newcastle-under-Lyme Borough Council exercises its powers under Section 59, 64 and 72 of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") and under all other enabling powers, hereby makes the following order:

1. This Order shall come into operation on DATE and shall have an effect for 3 years thereafter, unless extended by further order under the Councils statutory powers.
2. This Order relates to the part of Newcastle-under-Lyme Borough Council, area of Newcastle Town Centre as shown edged red on Appendix 1 ("the Exclusion Zone").
3. The Council is satisfied that the conditions set out in Section 59 (2) of the Act have been met. Namely, that anti-social behaviour and criminal activities have been carried out within the Exclusion Zone. These activities have had a detrimental effect on the quality of life of those in the locality, and it is likely that the activities will be carried out within that area and have such an effect.
4. The Council is also satisfied that the conditions set out in Section 59 (3) of the Act have been met. Namely, that the effect or likely effect of the activities is, or is likely to be, of a persistent or continuing nature and that these activities are unreasonable and justify the restrictions imposed by this Order and that it is in all the circumstances expedient to make this Order for the purpose of reducing crime and/or anti-social behaviour in a public place.

#### **PROHIBITIONS:**

1. Possessing or using of an aerosol and/or any item intended to cause defacement within the Exclusion Zone.
2. Undertaking repairs of vehicles within Borough Council owned car parks in the Exclusion Zone other than for urgent breakdown repairs.
3. Using any Borough Council owned car parks within the Exclusion Zone as a place to congregate, such car parks are for legitimate parking purposes only.
4. Engaging in behaviour likely to cause harassment, alarm or distress within the Exclusion Zone. Examples include, but are not limited to the following activities:
  - a. Congregating in a group of three or more persons within the Exclusion Zone following a request from an Authorised Person that such group must disperse.
  - b. Being verbally abusive to any other person within the Exclusion Zone.
  - c. Using or threatening to use violence against any other person within the Exclusion Zone.

- d. Having in their possession open cans, bottles or other unsealed receptacles containing alcoholic beverages (including empty receptacles) within the Exclusion Zone.
  - e. Carrying out any form of graffiti on any surface within the Exclusion Zone.
5. Failing to cease to consume alcohol and/or surrender alcohol when requested to do so by a police officer or other authorised person.
  6. Ingesting, inhaling, injecting, smoking or otherwise using intoxicating substances including novel psychoactive substances within the Exclusion Zone.
  7. Persistent and aggressive begging, causing obstruction, harassment and threatening behaviour, which could cause intimidation.

#### **FIXED PENALTY NOTICES AND OFFENCES:**

1. It is an offence for a person without reasonable excuse to engage in any activity that is prohibited by this Order.
2. In accordance with section 63 of the Act, a person found to be in breach of this Order by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a level 2 fine or to a Fixed Penalty Notice..
3. In accordance with section 67 of the Act, a person found to be in breach of this Order other than by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a level 3 fine or to a Fixed Penalty Notice..

#### **APPEALS**

1. In accordance with section 66 of the Act, any interested person who wishes to challenge the validity of this Order on the grounds that the Council did not have the power to make the Order or that a requirement under the Act has not been complied with may apply to the High Court within six weeks from the date upon which the Order is made.

#### **DEFINITION AND EXEMPTIONS:**

1. Order may be cited as the '*Newcastle-under-Lyme Town Centre Anti-social Behaviour Public Spaces Protection Order*'.
2. '*Authorised Person*' a person authorised by the Newcastle-under-Lyme Borough Council including employees, partnership agency or contractor. Such authorised person must produce their authorisation upon request.
3. '*Intoxicating substances*' means substances with the capacity to stimulate or depress the central nervous system but does not include tobacco, alcohol or vaporisers.
4. '*Persistent and aggressive*' in the context of begging means sitting or loitering in a public space with any receptacle used to contain monies for the purpose of begging, soliciting payment, harassing and threatening such that could cause intimidation.
5. Consuming alcohol in breach of a PSPO is not an offence under S.67 of the Act. However, under S.63 of the Act it is an offence to fail to comply with a request by a Police Officer or an Authorised Person to cease drinking or surrender alcohol that a person has been or intends to drink in breach of the prohibition in the PSPO. This is also liable on summary



conviction to a fine not exceeding level 2 on the standard scale. If alcohol is confiscated, it can be disposed of by the person who confiscates it.

#### **RESTRICTIONS AND PENALTY:**

1. The Council is satisfied that the conditions set out in Sections 59, 64 and 72 of the Act have been satisfied and that it is in all the circumstances expedient to make this Order for the purposes of prohibiting the Activities within the Exclusion Zone. The effect or likely effect of this is, or is likely to be, of a persistent or continuing nature, such as to make this unreasonable, and justifies the restrictions imposed by this Order.
2. It is an offence for a person without reasonable excuse to engage in Activities which are prohibited by this Order.
3. No person shall:
  - a. Obstruct any authorised officer in the proper execution of their duties;
  - b. Obstruct any other person carrying out an act which is necessary to the proper execution of any contract associated with this order;
4. A person found to be in breach of this Order shall be liable on summary conviction to a maximum penalty of level 3 on the standard scale or a Fixed Penalty Notice of £100.

#### **APPENDIX:**

A street plan of Newcastle-under-Lyme Borough Council, Area of Newcastle Town Centre showing the Exclusion Zone edged in red.

Given under the Common Seal of  
Newcastle-under-Lyme Borough Council  
On the

.....day of .....2019

**THE COMMON SEAL** of the  
**COUNCIL**

Was hereunto affixed  
In the presence of:

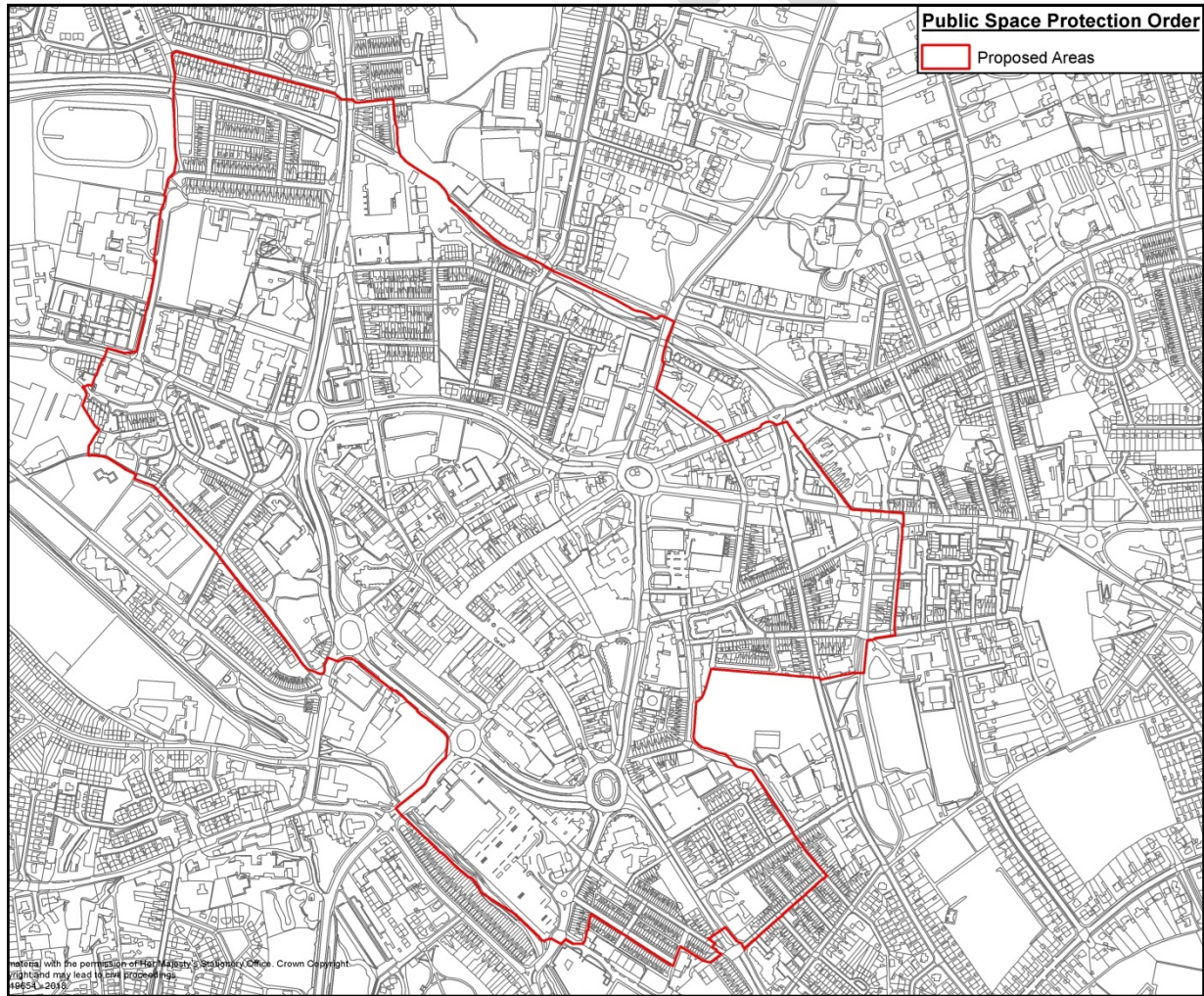
..... Authorised Officer

..... Designation

DRAFT

# APPENDIX 1

## PUBLIC SPACE PROTECTION ORDER NUMBER 1 of 2018 (the "ORDER") AREA OF NEWCASTLE-UNDER-LYME TOWN CENTRE ("the Exclusion Zone")



This page is intentionally left blank

## **NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

### **ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**

#### **PUBLIC SPACE PROTECTION ORDER NUMBER 1 OF 2018 (the "ORDER")**

##### **AREA OF QUEEN ELIZABETH PARK (off SILVERDALE ROAD)**

THIS ORDER may be cited as Newcastle-under-Lyme Borough Council, Public Spaces Protection Order Number 2 of 2018.

Newcastle-under-Lyme Borough Council exercises its powers under Section 59, 64 and 72 of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") and under all other enabling powers, hereby makes the following order:

1. This Order shall come into operation on DATE and shall have an effect for 3 years thereafter, unless extended by further order under the Councils statutory powers.
2. This Order relates to the part of Newcastle-under-Lyme Borough Council, area of Queen Elizabeth Park as shown edged red on Appendix 1 ("the Exclusion Zone").
3. The Council is satisfied that the conditions set out in Section 59 (2) of the Act have been met. Namely, that anti-social behaviour and criminal activities have been carried out within the Exclusion Zone. These activities have had a detrimental effect on the quality of life of those in the locality, and it is likely that the activities will be carried out within that area and have such an effect.
4. The Council is also satisfied that the conditions set out in Section 59 (3) of the Act have been met. Namely, that the effect or likely effect of the activities is, or is likely to be, of a persistent or continuing nature and that these activities are unreasonable and justify the restrictions imposed by this Order and that it is in all the circumstances expedient to make this Order for the purpose of reducing crime and/or anti-social behaviour in a public place.

#### **PROHIBITIONS:**

1. Possessing or using of an aerosol and/or any item intended to cause defacement within the Exclusion Zone.
2. Undertaking repairs of vehicles within Borough Council owned car parks in the Exclusion Zone other than for urgent breakdown repairs.
3. Using any Borough Council owned car parks within the Exclusion Zone as a place to congregate, such car parks are for legitimate parking purposes only.
4. Engaging in behaviour likely to cause harassment, alarm or distress within the Exclusion Zone. Examples include, but are not limited to the following activities:
  - a. Congregating in a group of three or more persons within the Exclusion Zone following a request from an Authorised Person that such group must disperse.
  - b. Being verbally abusive to any other person within the Exclusion Zone.
  - c. Using or threatening to use violence against any other person within the Exclusion Zone.

- d. Having in their possession open cans, bottles or other unsealed receptacles containing alcoholic beverages (including empty receptacles) within the Exclusion Zone.
  - e. Carrying out any form of graffiti on any surface within the Exclusion Zone.
5. Failing to cease to consume alcohol and/or surrender alcohol when requested to do so by a police officer or other authorised person.
  6. Ingesting, inhaling, injecting, smoking or otherwise using intoxicating substances including novel psychoactive substances within the Exclusion Zone.
  7. Persistent and aggressive begging, causing obstruction, harassment and threatening behaviour, which could cause intimidation.

#### **FIXED PENALTY NOTICES AND OFFENCES:**

1. It is an offence for a person without reasonable excuse to engage in any activity that is prohibited by this Order.
2. In accordance with section 63 of the Act, a person found to be in breach of this Order by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a level 2 fine or to a Fixed Penalty Notice..
3. In accordance with section 67 of the Act, a person found to be in breach of this Order other than by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a level 3 fine or to a Fixed Penalty Notice..

#### **APPEALS**

1. In accordance with section 66 of the Act, any interested person who wishes to challenge the validity of this Order on the grounds that the Council did not have the power to make the Order or that a requirement under the Act has not been complied with may apply to the High Court within six weeks from the date upon which the Order is made.

#### **DEFINITION AND EXEMPTIONS:**

1. Order may be cited as the '*Queen Elizabeth Park Anti-social Behaviour Public Spaces Protection Order*'
2. "*Authorised Person*" a person authorised by the Newcastle-under-Lyme Borough Council including employees, partnership agency or contractor. Such authorised person must produce their authorisation upon request.
3. '*Intoxicating substances*' means substances with the capacity to stimulate or depress the central nervous system but does not include tobacco, alcohol or vaporisers
4. '*Persistent and aggressive*' in the context of begging means sitting or loitering in a public space with any receptacle used to contain monies for the purpose of begging, soliciting payment, harassing and threatening such that could cause intimidation
5. Consuming alcohol in breach of a PSPO is not an offence under S.67 of the Act. However, under S.63 of the Act it is an offence to fail to comply with a request by a Police Officer or an Authorised Person to cease drinking or surrender alcohol that a person has been or intends to drink in breach of the prohibition in the PSPO. This is also liable on summary

conviction to a fine not exceeding level 2 on the standard scale. If alcohol is confiscated, it can be disposed of by the person who confiscates it.

#### **RESTRICTIONS AND PENALTY:**

1. The Council is satisfied that the conditions set out in Sections 59, 64 and 72 of the Act have been satisfied and that it is in all the circumstances expedient to make this Order for the purposes of prohibiting the Activities within the Exclusion Zone. The effect or likely effect of this is, or is likely to be, of a persistent or continuing nature, such as to make this unreasonable, and justifies the restrictions imposed by this Order.
2. It is an offence for a person without reasonable excuse to engage in Activities which are prohibited by this Order.
3. No person shall:
  - a. Obstruct any authorised officer in the proper execution of their duties;
  - b. Obstruct any other person carrying out an act which is necessary to the proper execution of any contract associated with this order;
4. A person found to be in breach of this Order shall be liable on summary conviction to a maximum penalty of level 3 on the standard scale or a Fixed Penalty Notice of £100.

#### **APPENDIX:**

A street plan of Newcastle-under-Lyme Borough Council, Area of Queen Elizabeth Park showing the Exclusion Zone edged in red.

Given under the Common Seal of  
Newcastle-under-Lyme Borough Council  
On the

.....day of .....2019

**THE COMMON SEAL** of the  
**COUNCIL**

Was hereunto affixed  
In the presence of:

..... Authorised Officer

..... Designation

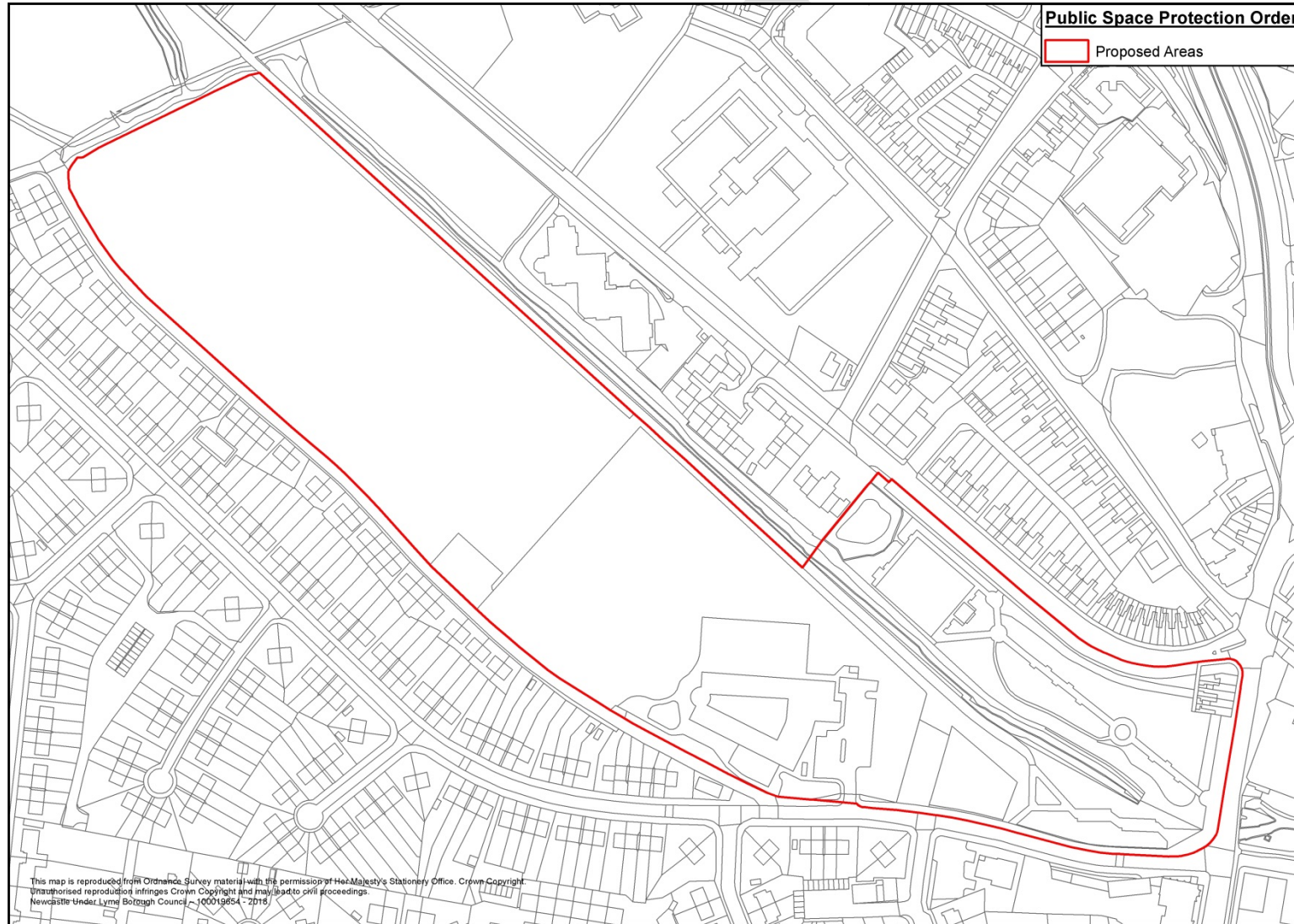
DRAFT



# APPENDIX 1

## PUBLIC SPACE PROTECTION ORDER NUMBER 2 of 2018 (the "ORDER")

### AREA OF QUEEN ELIZABETH PARK ("the Exclusion Zone")



This page is intentionally left blank