

## **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")

