

The Anti-social Behaviour, Crime and Policing Act 2014

The Public Spaces Protection Order (Restricting Alcohol)(Borough Council of King's Lynn and West Norfolk) 2017

The Borough Council of King's Lynn and West Norfolk ("the Council") hereby makes the following Order:

This Order is made by the Borough Council of King's Lynn & West Norfolk ("the council") in exercise of its powers under Section 59 and Chapter 2 of Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014 ("the Act"). The council is satisfied that the activities, namely:

- Alcohol consumption causing alcohol related Anti-Social Behaviour

Being carried on within Downham Market ("the public place") has had a detrimental effect on the quality of life of those in the locality and that such activities are of a persistent or continuing nature and the restrictions imposed by this notice are justified.

1. DURATION OF THE ORDER

This Order comes into force on 1 October 2017 for a period of 3 years, unless extended by further orders under the council's statutory powers.

2. THE RESTRICTED AREA

2.1 – Downham Market

This order relates to all public/private land open to the air to which the public have access with or without payment (Restricted Area shown in **Schedule 1** is defined by the red boarder and hatching including the highway and highway boundary which the red boarder runs through).

3. THE RESTRICTIONS

When asked by an authorised person to stop drinking or surrender their alcohol, no person shall consume alcohol or have an open container of alcohol in the Restricted Area. This restriction is subject to the exemptions in Chapter 2, S.62 of the Anti-Social Behaviour Crime and Policing Act 2014.

Offences - Anti-social Behaviour, Crime and Policing Act 2014 – Chapter 2 Section 63

(1) This section applies where a constable or an authorised person reasonably believes that a person (P)—

- (a) is or has been consuming alcohol in breach of a prohibition in a public spaces protection order, or

(b) intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition.

In this section “authorised person” means a person authorised for the purposes of this section by the local authority that made the public spaces protection order (or authorised by virtue of section 69(1)).

(2) The constable or authorised person may require P—

(a) not to consume, in breach of the order, alcohol or anything which the constable or authorised person reasonably believes to be alcohol;

(b) to surrender anything in P’s possession which is, or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol.

(3) A constable or an authorised person who imposes a requirement under subsection (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.

(4) A requirement imposed by an authorised person under subsection (2) is not valid if the person—

(a) is asked by P to show evidence of his or her authorisation, and

(b) fails to do so.

(5) A constable or an authorised person may dispose of anything surrendered under subsection (2)(b) in whatever way he or she thinks appropriate.

(6) A person who fails without reasonable excuse to comply with a requirement imposed on him or her under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

4. EXEMPTIONS

Anti-social Behaviour, Crime and Policing Act 2014 – Chapter 2 Section 62

Premises etc to which alcohol prohibition does not apply

(1) A prohibition in a public spaces protection order on consuming alcohol does not apply to—

(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 (a) or (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) A prohibition in a public spaces protection order on consuming alcohol does not apply to 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 section—

“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 section, 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.

5. WHAT HAPPENS IF YOU FAIL TO COMPLY WITH THIS ORDER

It is an offence for a person who, without reasonable excuse, does anything that the person is prohibited from doing by this order or fails to comply with a requirement of the order. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Pursuant to section 68 of the Anti-Social Behaviour, Crime and Policing Act 2014:

- (i). A constable or an authorised person may issue a fixed penalty notice to anyone he or she has reason to believe has committed an offence under section 63 in relation to a public spaces protection order.
- (ii). A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to a local authority specified in the notice.

6. RIGHT TO APPEAL

Any interested person wishing to challenge the validity of this order must do so within 6 weeks beginning with the date on which this order is made or, if applicable, varied. An application under section 66 Anti-social Behaviour, Crime and Policing Act 2014 is to the High Court.

Schedule 1 (Downham Market Town)

