

Draft Crawley Borough Council Alcohol Consumption Public Spaces Protection Order No 1 of 2023 (“Order”)

PUBLIC SPACES PROTECTION ORDER

This order is made by Crawley Borough Council (the “Council”) and shall be known as the Crawley Borough Council Alcohol Consumption Public Spaces Protection Order No 1 of 2023.

PRELIMINARY

1. The Council, in making this order is satisfied on reasonable grounds that:
 - 1.1 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
 - 1.2 that the effect, or likely effect, of the activities:
 - 1.2.1 is, or is likely to be, of a persistent or continuing nature,
 - 1.2.2 is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed by the notice.
2. 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.
3. The Council has had regard to the rights and freedoms set out in the European Convention on Human Rights. 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.

THE ACTIVITIES

4. The activities prohibited by this order are (“the Activities”):
 - 4.1 The consumption of alcohol in circumstances where it contributes to or is linked to or is associated with nuisance or annoyance to members of the public or a section of the public; and
 - 4.2 The consumption of alcohol in circumstances where it contributes to or is linked to or is associated with disorder.

THE PROHIBITION

5. A person shall not engage in the Activities in any Public Place within the Restricted Area.
6. This Prohibition is subject to the Exceptions stated below.

THE EXCEPTIONS

7. Section 62 of the of the Anti-Social Behaviour Crime and Policing Act 2014 has the effect that the prohibition in paragraph 5 of this order shall not apply to any of the premises specified in that provision.

OTHER

8. Section 63 of the of the Anti-Social Behaviour Crime and Policing Act 2014 applies where there is a breach of the prohibition in paragraph 5.

DEFINITIONS

9. For the purpose of this order the following definitions will apply:
- 9.1 “alcohol” has the meaning given by section 191 of the Licensing Act 2003;
 - 9.2 “Public place” means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
 - 9.3 “Restricted Area” has the meaning given by section 59(4) of the Anti-Social Behaviour, Crime and Policing Act 2014 and for the purposes of this order is shown delineated by the blue line on the plan annexed at Schedule 1 to this order, but excluding the area hatched in red.

PERIOD FOR WHICH THIS ORDER HAS EFFECT

10. This Order will come into force at midnight on 22 October 2023 and will expire at 11:59 pm on 21 October 2026.
11. At any point before the expiry of this three year period the Council 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. The Council may extend this order more than once.

WHAT HAPPENS IF YOU FAIL TO COMPLY WITH THIS ORDER?

Section 63 of the Anti-Social Behaviour Crime and Policing Act 2014 (“the Act”) says that where a constable or authorised local authority officer reasonably believes that a person is or has consumed alcohol in breach of a prohibition in a public spaces protection order, or intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition, then they may require that person:

- (a) not to consume, in breach of the order, alcohol or anything which the constable or authorised officer reasonably believes to be alcohol; or
- (b) to surrender anything in the person's possession which is, or which the constable or authorised officer reasonably believes to be, alcohol or a container for alcohol.

However, a requirement (not consume alcohol or to surrender alcohol/container for alcohol, as described above) is not valid if the person requests the constable/authorised officer for evidence of their authorisation and the constable/authorised does not do so: section 63(4) of the Act.

The constable or authorised officer who imposes the requirement must tell the person that failing without reasonable excuse to comply with the requirement is an offence: section 63(4) of the Act.

It is a criminal offence under section 63(6) of the Act to fail, without reasonable excuse, to comply with a requirement (not consume alcohol or to surrender alcohol/container for alcohol, as described above). A person guilty of an offence is liable on conviction in a Magistrates' Court to a fine not exceeding level 2 on the standard scale.

A constable or authorised officer may dispose of anything surrendered in compliance with a requirement however he or she thinks appropriate.

It is also a criminal offence under section 67 of the Act for a person without reasonable excuse to do anything that the person is prohibited from doing by a public spaces protection order. A person guilty of an offence under section 67 of the Act is liable on conviction in the Magistrates' Court to a fine not exceeding level 3 on the standard scale.

FIXED PENALTY

A constable, police community support officer or authorised Council officer may issue a fixed penalty notice to anyone they believe has committed an offence under section 67 of the Anti- Social Behaviour, Crime and Policing Act. You will have 14 days to pay the fixed penalty of £100. If you pay the fixed penalty within the 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 an individual who lives in the Restricted Area or who regularly works in or visits that 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 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.

The COMMON SEAL of CRAWLEY)
BOROUGH COUNCIL was hereunto)
affixed the day of)
in the presence of:)

Authorised officer

Schedule 1
to the Crawley Borough Council Alcohol Consumption Public
Spaces Protection Order No 1 of 2023

Plan of Restricted Area

