

Proposed Public Spaces Protection Order

DENBIGHSHIRE COUNTY COUNCIL

Anti-Social Behaviour, Crime and Policing Act 2014

Denbighshire County Council Dog Control and Dog Fouling Public Spaces Protection Order 2021

Notice is hereby given that Denbighshire County Council {"the Council"} in exercise of its powers under Sections 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 {"the Act"} and under all other enabling powers, makes the following Order known as:

The Denbighshire County Council Dog Control and Dog Fouling Public Spaces Protection Order 2021

1. This Order applies to the public places described in the Schedules to this Order and shown edged in blue on the plans attached - ("the restricted areas").

2. The Council is satisfied that the two conditions below have been met, in that:-

(i) activities carried on in the restricted area as described below have had a detrimental effect on the quality of life of those in the locality, or it is likely that these activities will be carried on in the public place and they will have such an effect;

{(ii) the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed by the Order.

3. This Order will come into force on the 2021 and ends on.... 2024 unless extended by further Orders under the Council's statutory powers.

BY THIS ORDER

4. The effect of the Order is to impose the following prohibitions and/or requirements in the restricted areas at all times:

(i) Fouling of Land by Dogs

a) If a dog defecates at any time on land in the restricted area detailed in Schedule 1 of this Order and the person who is in charge of the dog at the time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless -

- (i) That person has a reasonable excuse for failing to do so; or
- (ii) The owner/occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so; or
- (iii) That person is subject to the exemptions listed in Schedule 1

b) For the purpose of this article:-

- (i) A person who habitually has a dog in their possession is taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

{(ii) Means to pick up dog faeces

a) A person in charge of a dog on land in the restricted area detailed in Schedule 1 must have with them appropriate means to pick up dog faeces deposited by that dog unless-

- (i) That person has a reasonable excuse for failing to do so; or
- (ii) The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person doing so; or
- (iii) That person is subject to the exemptions listed in Schedule 1

b) The obligation in Article 4 (ii) (a) is complied with if, after a request from a constable or authorised officer, the person in charge of the dog produces an appropriate means to pick up dog faeces.

c) In this article, "an authorised officer" means a person who is authorised in writing by the Council for the purpose of giving directions under this article.

d) For the purpose of this article:-

~~↔~~(i) A person who habitually has a dog in their possession is taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

(iii) Dogs Excluded

a) A person in charge of a dog is prohibited from taking that dog onto, or permitting the dog to enter or to remain on land within the restricted area referred to in Schedule 2 of this Order unless -

(i) That person has a reasonable excuse for failing to do so; or

(ii) The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person doing so; or

{(iii)} That person is subject to the exemptions listed in Schedule 2

b) During the period of 1st May and 30th September each year, a person in charge of a dog is prohibited from taking that dog onto, or permitting the dog to enter or to remain on land within the restricted area referred to in Schedule 3 of this Order unless

(i) That person has a reasonable excuse for failing to do so; or

~~↔~~(ii) The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person doing so; or

~~↔~~(iii) That person is subject to the exemptions listed in Schedule 2

c) For the purpose of this article:-

(i) A person who habitually has a dog in their possession is taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

(iv) Dogs on lead by direction

a) Any person in charge of a dog, at any time, must put and keep the dog on a lead when directed to do so in the restricted area detailed in Schedule 4, unless -

(i) That person has a reasonable excuse for failing to do so; or

(ii) The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so; or

b) For the purpose of this article:-

(i) A person who habitually has a dog in their possession is taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;

(ii) A constable or authorised officer of the Council may only give a direction under this article to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person or the worrying or disturbance of any other animal or bird on any land to which this article applies.

(iii) In this article, "an authorised officer of the Council" means a person who is authorised in writing by the Council for the purpose of giving directions under this article.

(v) Dogs on leads in Specified areas

a) Any person in charge of a dog, at any time, must put and keep the dog on a lead in the restricted area detailed in Schedule 5, unless -

(i) That person has a reasonable excuse for failing to do so; or

(ii) The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so;

b) For the purposes of this article:-

(i) A person who habitually has a dog in their possession is taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

5. PENALTY

Any person who fails without reasonable excuse to comply with any of the requirements or prohibitions at Articles 4(1i), (ii), (iii), (iv) and (v) in this Order shall be liable on summary conviction to a fine not exceeding level 3 (currently £1000) on the standard scale.

6. FIXED PENALTY

A constable or authorised person of the Council may issue a fixed penalty notice to anyone he or she believes has committed an offence. A person committing an offence will have 14 days to pay the fixed penalty of £100, failing which they may be prosecuted.

7. APPEALS

Any challenge to this Order must be made at the High Court by an interested person within 6 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 the Order on two grounds: that the Council did not have the 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.

Dated this dayof 2021

RESTRICTED AREAS

SCHEDULE 1

1) All public places within the whole area of Denbighshire County.

"Public place" in this order, 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;

2)} Exemptions

a) Nothing in this Schedule applies to a person who:-

i) Is registered as a blind person in a register compiled under Section 29 of the National Assistance Act 1948; or

ii) has a disability which affects that person's mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which that person relies for assistance.

b) Each of the following is a "prescribed charity":-

i) Dogs for the Disabled (registered charity number 700454);

ii) Support Dogs (registered charity number 1088281);

iii) Canine Partners for Independence (registered charity number 803680)

SCHEDULE 2

1) All public places within the whole area of Denbighshire County relating to:

(a) Equipped children's play areas

(b) The playing areas of marked sports pitches

(c) The playing areas of formal recreation areas including but not exclusively bowling greens and tennis courts

(d) All areas within school grounds

(e) Cemeteries

2) "public place" in this Order 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;

3) Exemptions

a) Nothing in this Schedule applies to a person who:-

(i) is registered as a blind person in a register compiled under Section 29 of the National Assistance Act 1948; or

(ii) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which that person relies for assistance (dogs must be clearly marked as assistants) ; or

(iii) has a disability which affects that person's mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which that person relies for assistance (dogs must be clearly marked as assistants).

b) Each of the following is a "prescribed charity":-

(i) Dogs for the Disabled {registered charity number 700454};

(ii) Support Dogs (registered charity number 1088281);

(iii) Canine Partners for Independence (registered charity number 803680)

SCHEDULE 3

1) All public places in the area edged in blue as shown and described within the whole area of Denbighshire County as shown in Plan 1 and 2:

"public place" in this Order 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;

2) Exemptions contained in Schedule 2, (3) apply.

SCHEDULE 4

1) All public places within the whole area of Denbighshire County.

"public place" in this Order 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;

2) Exemptions

None

SCHEDULE 5

1) All public places marked in blue as shown and described on Plan 3, Plan 3(a), Plan 3(b), Plan 3(c) within the whole area of Denbighshire County as shown Plan 3:

2) Exemptions

None