

APPENDIX ITEM 2



CHESHIRE EAST BOROUGH COUNCIL DOG FOULING AND DOG CONTROL PUBLIC SPACES PROTECTION ORDER

Cheshire East Borough Council makes this Order under **Section 59 Anti-Social Behaviour, Crime and Policing Act 2014** [hereinafter referred to as the 'Act'], having consulted as required by **Section 72** of that Act.

This Order takes effect on 1st November 2017 and has a duration of 3 years.

It applies to the public place, defined by section 59(4) of the Act as 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, and known as "Cheshire East Borough Council" which is shown on the plan attached to the Order. Hereinafter referred to as 'the Restricted Area'

The Council is satisfied that activities have been carried out in this Restricted Area which have a detrimental effect on the quality of life of those in the locality. Further, it is satisfied that the effect of these activities is or is likely to be of a persistent or continuing nature, is or likely to be such as to make the activities unreasonable and the effect justifies the restrictions imposed.

Introduction

(a) Cheshire East Council has a duty to take action against individuals who fail to clean up after their dogs on publicly accessible land. The presence of dog faeces is a potential hazard to all members of the public alike. It causes risks to health, defaces land and has the potential to deface people and their property.

(b) When not properly supervised and kept under control, dogs that are allowed off a lead in public areas can cause road traffic accidents, and can cause nuisance or injury to members of the public and to other animals.

(c) The Council is satisfied that the behaviour set out above has had, and is likely to continue to have, a detrimental effect on the quality of life of people within the Borough of Cheshire East Council.

(e) This Order seeks to prevent or reduce the detrimental effects referred to above, by imposing reasonable restrictions and requirements on people whilst in charge of dogs on public land. It seeks to facilitate the safe sharing of our public spaces, whilst recognising that people should be able to exercise their dogs off lead in public areas, provided that their dogs are under control and behaving appropriately.

These activities have given rise to nuisance and complaint to both the Council and the Police from local residents, visitors to the area and businesses.

Cheshire East Borough Council therefore has exercised its power under section 59(4) Anti-Social Behaviour, Crime and Policing Act 2014 to make this order to:

PROHIBIT

Part 1 - Dog Fouling

1. If a dog defecates at any time on land to which this part of the Order applies, and the person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless he can show that:-

(a) he has a reasonable excuse for failing to do so; or

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

2. This part of the Order applies to all public places in the Borough of Cheshire East Council (see map attached with this Briefing paper)

For these purposes, a "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.

3. For the purpose of this part of the Order:

(a) placing the faeces in a receptacle on the land which is provided for this purpose, or for the disposal of waste, shall be a sufficient removal from the land;

(b) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces, shall not be a reasonable excuse for failing to remove the faeces;

REQUIRE

Part 2 - Dogs on lead by direction

4. A person in charge of a dog will be guilty of an offence if at any time, on land to which this part of the Order applies, they fail to comply with a direction given to them by an authorised person to put and keep the dog on a lead for such period and/or in such circumstances as directed by the officer, unless he can show that:-

(a) he has a reasonable excuse for failing to do so; or

(b) the owner, occupier, or other person or authority having control of the land, has consented (generally or specifically) to him failing to do so.

5. For these purposes, a “lead” means any rope, cord, leash or similar item used to tether, control or restrain a dog, but does not include any such item which is not actively being used as a means of restraint so that the dog remains under a person’s close control.

6. This part of the Order applies to all public places in the Borough of Cheshire East Council.

For these purposes, a “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

7. For the purposes of this part of the Order, an authorised person of the Council may only direct a person to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance, or behaviour by the dog that is likely to cause annoyance or disturbance to any other person, or the worrying or disturbance of any animal.

8 An authorised person for example a Police Constable, Police Community Police Officer or Council Officer must show authorisation when reasonably requested to do so.

This can include a person who is not an employee of the Council.

Exemptions for Disabled People

9. The dog fouling provisions in this Order do not apply to a person who:

(a) is registered as partially sighted or blind, in a register compiled under section 29 of the National Assistance Act 1948; or

(b) is registered as “sight-impaired”, “severely sight-impaired” or as “having sight and hearing impairments which, in combination, have a significant effect on their day to day lives”, in a register compiled under section 18 of the Social Services and Well-being (Wales) Act 2014; or

(c) has a disability which affects his mobility, manual dexterity, physical coordination, or ability to lift, carry, or otherwise move everyday objects, such that he cannot reasonably be expected to remove the faeces; or

(d) has some other disability, such that he cannot reasonably be expected to remove the faeces.

10. For the purposes of this Order, a “disability” means a condition that qualifies as a disability for the purposes of the Equality Act 2010 and a “disabled person” means a person who has such a disability.

Exemption for Working Dogs

11. Nothing in this Order shall apply to the normal activities of a working dog, whilst the dog is working.

This includes dogs that are being used for work in connection with emergency search and rescue, law enforcement and the work of Her Majesty's armed forces; farm dogs that are being used to herd or drive animals; dogs that are being lawfully used for the capture or destruction of vermin and dogs that are being lawfully used for the purposes of hunting.

Other Matters

12. For the purposes of this Order a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

13. Where the person in charge of a dog wishes to rely upon any of the exemptions set out in this order, the burden will be on him to prove that he satisfies the requirements of the exemption being relied upon.

Failure without reasonable excuse to comply with the prohibitions or requirements imposed by this Order is an offence under **Section 67 of the Anti-Social Behaviour, Crime and Policing Act 2014**. A person guilty of this offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale, namely **£1000.00**.

A constable or an authorised person may under **Section 68 of the Anti-Social Behaviour, Crime and Policing Act 2014**, issue a fixed penalty notice to anyone he/she has reason to believe has committed an offence under **Section 67** of that Act in relation to this Order.

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 or Variation is made.

APPENDIX:

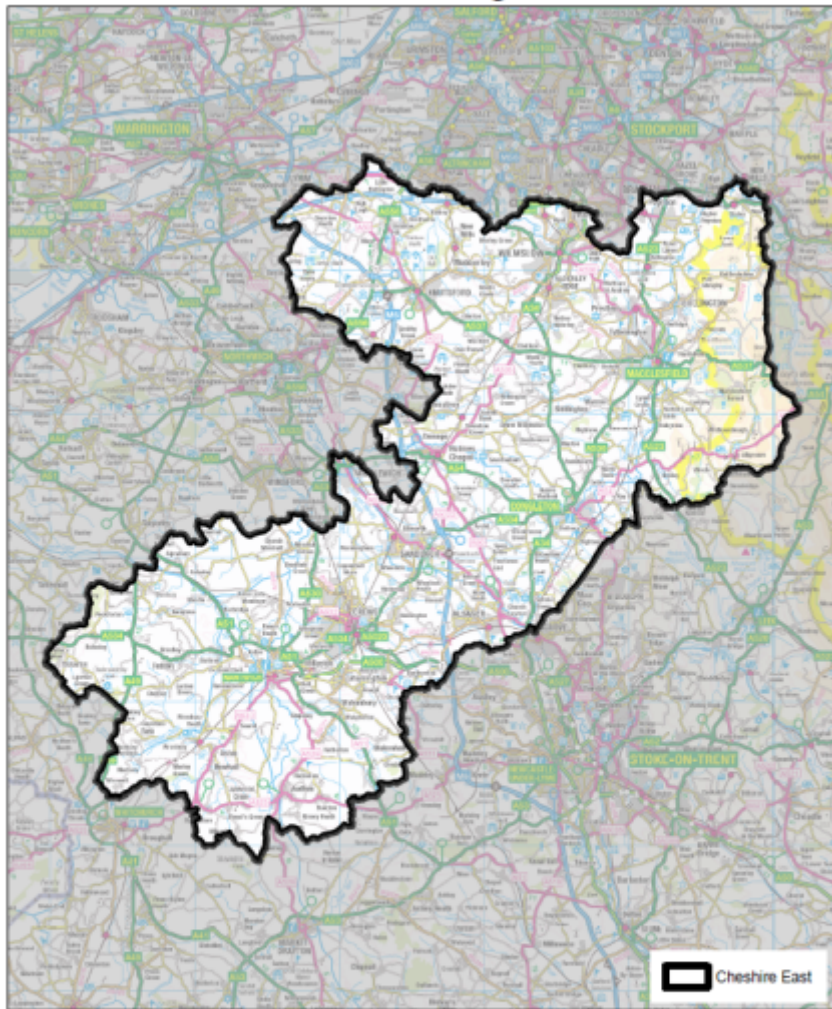
A plan of the restricted area to which this order applies.

Signed.....

By authority of the Cheshire East Borough Council under section 101 of the Local Government Act 1972

Dated:.....

Cheshire East Borough Council



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