

## **THE STRATFORD-ON-AVON DISTRICT COUNCIL**

### **(PUBLIC SPACES PROTECTION) (EARLSWOOD) ORDER 2021**

The Stratford-on-Avon District Council makes this order in exercise of its powers under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 and of all other enabling powers being satisfied that the conditions set out in Section 59 of the Act have been met.

#### **PREAMBLE**

- (A) The Council is satisfied that activities have taken place which have had a detrimental effect on the quality of life of those in the locality of Earlswood. The activities include the supply, possession, consumption and use of psychoactive substances, car cruising, loitering and the consumption of alcohol.
- (B) The Council is satisfied that the effect of these activities is persistent in nature such as to make the activities unreasonable and to justify the restrictions set out in this Order.
- (C) The Council is satisfied that it is reasonable to impose the restrictions set out in this Order so as to prevent or to reduce the detrimental effect referred to above from continuing, occurring or recurring.
- (D) The Council has had particular regard to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom.
- (E) The Council has carried out the necessary consultation and the necessary publicity, and given the necessary notification, as required by sections 64 and 72 of the Act, before making this Order.
- (F) To the extent that this Order might have restricted the public right of way over a highway, the Council has considered the likely effect of making the Order on the occupiers of premises adjoining or adjacent to the highway and other persons in the locality and the availability of reasonably convenient alternative routes.
- (G) Any individual who lives in or regularly works in or visits the area to which this Order extends may apply to the High Court to question this Order's validity on the grounds that the Council did not have the power to make the Order or to include particular prohibitions or requirements imposed by it, or that a requirement contained in the Act was not complied with in relation to the Order. Any application must be made within a period of six weeks beginning with the date on which the Order is made.
- (H) For the purposes of this Order, "the Council" means Stratford-on-Avon District Council (and its lawful successors), "highway" has the meaning given by Section 328 of the Highways Act 1980, and "the Act" means the Anti-Social Behaviour, Crime and Policing Act 2014.

#### **PART I –PSYCHOACTIVE SUBSTANCES**

1. A person commits an offence if they possess or consume a psychoactive substance.
2. For the purposes of this Part, a "psychoactive substance" has the meaning given in Section 2 of the Psychoactive Substances Act 2016, and a person consumes a psychoactive substance if they cause or allow the substance, or fumes given off by it, to enter their body in any way.

## PART II – CAR CRUISING

3. A person commits an offence if they are the driver or passenger of a motor vehicle (including, but not limited to, cars, vans, trucks, motorbikes, quadbikes and mopeds) in circumstances where car cruising takes place.
4. A person commits an offence if they promote, organise or publicise via e-mail, the internet (including social media) or any publication or broadcast, any event at which car cruising will take place in contravention of this Order.
5. A person commits an offence if they attend a car cruising event as a spectator.
6. For the purposes of this Part, car cruising means the use of a motor vehicle in congregation with at least one other motor vehicle and in connection with any of the following activities: –
  - (a) speeding;
  - (b) racing;
  - (c) driving in a convoy;
  - (d) performing stunts;
  - (e) sounding horns;
  - (f) playing music;
  - (g) using foul or abusive language;
  - (h) using threatening or intimidating behaviour towards another person;
  - (i) causing obstruction on a highway or in a publically accessible place (whether moving or stationary);
  - (j) excessively revving an engine; or
  - (k) carrying out any other activity which a reasonable person would consider to constitute participation in a car cruising event,  
  
provided such activity is carried out in a manner causing, or calculated to, or likely to cause excessive noise, or increased danger or risk of injury to road users (including pedestrians), damage or risk of damage to property, risk of harm, nuisance or annoyance to others in the locality.
7. For the avoidance of doubt, nothing in this Order is intended to restrict the public right of way over a highway –
  - (a) for the occupiers of premises adjoining or adjacent to the highway;
  - (b) that is the only or principal means of access to a dwelling;
  - (c) that is the only or principal means of access to premises used for business or recreational purposes during periods when the premises are normally used for those purposes; or
  - (d) that is a special road, a trunk road, a classified or principal road, a strategic road, or a highway in England of a description prescribed by regulations made by the Secretary of State.

8. For the purposes of this Part, a “dwelling” means a building or part of a building occupied, or intended to be occupied, as a separate dwelling, “strategic road” has the meaning given by Section 60(4) of the Traffic Management Act 2004, “principal road” has the meaning given by Section 12 of the Highways Act 1980, and “classified road”, “special road” and “trunk road” have the meanings given by Section 329(1) of the Highways Act 1980.

### **PART III – LOITERING**

9. A person commits an offence if they are loitering and causing, or are reasonably perceived to be causing (or likely to cause), intimidation, harassment, alarm or distress to another person.
10. In circumstances where a constable or an authorised person reasonably believes that a person is loitering in breach of the Order, the constable or authorised person may require that person to cease loitering immediately and leave an area specified by the constable or authorised person.
11. A person who fails without reasonable excuse to comply with a requirement imposed on them under Article 10 commits an offence.

### **PART IV – ALCOHOL**

12. A person commits an offence if they fail to cease drinking alcohol or to surrender the alcohol when directed by a constable or authorised person.
13. Nothing in Article 12 applies to alcohol consumed on –
  - (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 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 (temporary event notices, etc.), 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; or
  - (f) Council-operated licensed premises when the premises are being used for the supply of alcohol or within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.
14. In circumstances where a constable or an authorised person reasonably believe that a person is consuming, has consumed, or intends to consume alcohol in breach of the Order, the constable or authorised person may require that person –
  - (a) not to consume, in breach of the Order, alcohol or anything which the constable or authorised person reasonably believe to be alcohol, and / or



- (b) to surrender anything in their possession which is, or which the constable or authorised person reasonably believe to be, alcohol or a container for alcohol.
15. A constable or authorised person imposing a requirement under Article 14 must tell the person subject to the requirement that failing without reasonable excuse to comply with the requirement is an offence.
16. A requirement imposed by an authorised person under Article 14 is not valid if the authorised person fails to show evidence of their authorisation on request to the person who is subject to the requirement.
17. A constable or an authorised person may dispose of anything surrendered under Article 14 in whatever way they think appropriate.
18. A person who fails without reasonable excuse to comply with a requirement imposed on them under Article 14 commits an offence.
19. For the purposes of this Part, “alcohol” has the meaning given in section 191 of the Licensing Act 2003, “supply of alcohol” has the meaning given in section 14 of the Licensing Act 2003, “premises licence” has the meaning given in Section 11 of the Licensing Act 2003, and “club premises certificate” has the meaning given in Section 60 of the Licensing Act 2003.

#### **PART V – PENALTIES**

20. A person who is guilty of an offence under Part I, Part II or Part III above shall on summary conviction be liable to a fine not exceeding level 3 on the standard scale.
21. A person who is guilty of an offence under Part IV above shall on summary conviction be liable to a fine not exceeding level 2 on the standard scale.
22. A constable or an authorised person may issue a fixed penalty notice to anyone he has reason to believe has committed an offence under this Order, and where that fixed penalty is paid in accordance with the terms of the fixed penalty notice, that person shall not be liable to conviction for the offence.
23. The penalty specified in a fixed penalty notice issued under Article 22 shall be no more than £100, or such lower amount as may be specified in the fixed penalty notice.

#### **PART VI – AUTHORISED PERSONS**

24. For the purposes of this Order, an authorised person includes –
- (a) a police community support officer; and
  - (b) any other person duly authorised by the Council.

#### **PART VII – COMMENCEMENT**

25. This Order shall come into operation on 01 May 2021 and shall continue in effect until 01 May 2024.

26. The Council may resolve to extend the duration of this Order by further periods of up to three years per extension.

#### **PART VIII – RESTRICTED AREA**

27. This Order (including, for the avoidance of doubt, all of the restrictions set out herein) applies to all public places in the part of Earlswood in the District of Stratford-on-Avon shown edged red on the appended plan.
28. For the avoidance of doubt, this Order applies to all persons, at all times, in all circumstances, in relation to the restricted area.
29. For the purposes of this Part, 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 (and for the avoidance of doubt, includes highways).

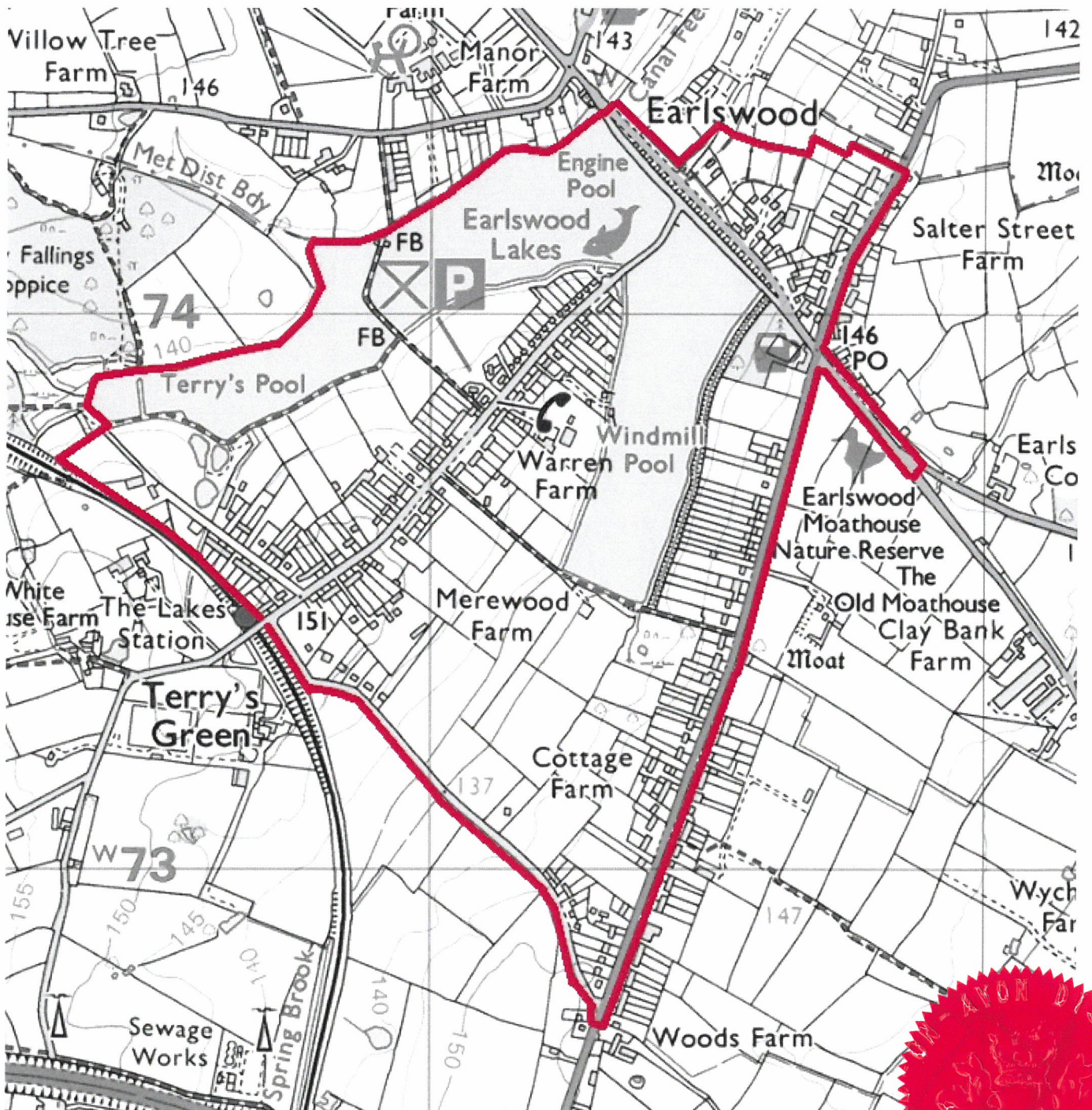
IN WITNESS WHEREOF the Common Seal of the Stratford-on-Avon District Council was hereto affixed in the presence of an authorised signatory on this 29 day of APRIL 2021.

*A. Chapman*



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*A. Chamberlain*

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