

TUNBRIDGE WELLS BOROUGH COUNCIL (DOG CONTROL) PUBLIC SPACES PROTECTION ORDER (NO.6 OF 2022)

Dog Control - Dunorlan Park

An Order of the Borough Council of Tunbridge Wells (“the Council”) to make provision in relation to dealing with nuisances having detrimental effect on public health and quality of life within the community of Tunbridge Wells. To make further provision about certain functions of the Council to prevent Anti-social behaviour and Crime and to assist in the policing of such behaviour.

1. Definitions

- 1.1. **“Authorised Officer”** means a Police Constable, a designated Police Community Support Officer, or an officer with delegated authority from the Council to enforce the Order
- 1.2. **“In charge of a dog”** means a person who habitually has a dog in their possession unless at that time some other person is in charge of the dog
- 1.3. **“Interested Person”** means an individual who lives in the restricted area or who regularly works in or visits that area
- 1.4. **“Public Space”** 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
- 1.5. **“the Act”** means section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014
- 1.6. **“the Activities”** means failure of dog owners or persons in charge of a dog to keep their dog(s) on a lead within the boundaries of the Restricted Area.
- 1.7. **“the Council”** means Tunbridge Wells Borough Council
- 1.8. **“the Restricted Area”** means the exercise area for dogs on leads as shown edged red on the map in Schedule 1 of the Order
- 1.9. **“the Unrestricted Area”** means the exercise area for dogs off leads as shown hatched blue on the map in Schedule 1 of the Order.

2. Effect of the Order

- 2.1. Notice is hereby given that Tunbridge Wells Borough Council (“the Council”) has made the following Public Spaces Protection Order under **section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014** (“the Act”)
- 2.2. The Order may be cited as the **Tunbridge Wells Borough Council (Dog Control) Public Spaces Protection Order (No.6 of 2022)**.
- 2.3. The Order is made by the Council in exercise of its powers having carried out the necessary consultation and being satisfied on reasonable grounds that:
 - 2.3.1. The Activities have been carried on in a Public Space within the Restricted Area and have had a detrimental effect on the quality of life of those in the locality, or it is likely that the activities will take place and that they will have a detrimental effect; and
 - 2.3.2. The effect, or likely effect of the Activities is, or is likely to be, of a persistent or continuing nature, such as to make the Activities unreasonable and justifies the restrictions imposed by the Order
- 2.4. The land shown in Schedule 1 is comprised of the (“Restricted Area”) and (“the Unrestricted Area”), both of which the **Anti-Social Behaviour, Crime and Policing Act 2014** applies and will be protected by the making of this Order.
- 2.5. This Order is made on June 2022 for a duration of three years unless extended, varied, or discharged under the Council’s Statutory Powers.
- 2.6. 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 these Activities identified in the Order from recurring or to prevent an increase in the frequency of those activities after that time.
- 2.7. The Council has had regard to the rights and freedoms under Article 10 (freedom of expression) and Article 11 (freedom of assembly and association) as set out in the European Convention on Human Rights and is satisfied that the restrictions imposed by this Order are lawful, necessary, and proportionate.
- 2.8. The effect of the Order is to impose the following conditions on the use of the land as set out in sections 3 - 7 of this Order below:

3. Dogs on Leads by Order

- 3.1. This relates to the Public Space in the area shown edged red on the plan attached at Schedule 1 of this Order (“the Restricted Area”)
- 3.2. This Order does not apply to the area shown edged red on the map in Schedule 1 of this Order (“the Unrestricted Area”) where dogs are permitted off leads.

- 3.3. A person in charge of a dog (or dogs) shall be guilty of an offence if, at any time within the Restricted Area they do not comply with the direction given to him by an Authorised Officer to put and keep the dog (or dogs) on a lead unless:
- (a) they have a reasonable excuse for failing to do so, and/or
 - (b) the owner, occupier, or other person or Council having control of the land has consented (generally or specifically) to the failing to do so.

4. Exemptions

This Order does not apply to a person who:

- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; and/or
- (b) is deaf, in respect of a dog (or dogs) trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; and/or
- (c) has a disability which affects his mobility, manual dexterity, physical coordination, or ability to lift, carry or otherwise move everyday objects, in respect of a dog (or dogs) trained by a prescribed charity and upon which he relies for assistance; and/or
- (d) is not a person falling within the criteria mentioned in paragraphs 10(a) to (c) above but who the Authority consider should be exempt due to the impairment of that particular person; and/or
- (e) in charge of a working dog carrying out normal activities including dogs being used for work in connection with emergency search and rescue, law enforcement, HM Armed Forces or farm dogs herding or driving animals and/or
- (f) is training an assistance dog for a registered charity or such other approved body as is considered appropriate by the Authority

5. Offences

- 5.1. It is an offence for a person without reasonable excuse to:
- (a) Do anything that the person is prohibited from doing by the Order; or
 - (b) Fail to comply with a requirement to which the person is subject under the Order
- 5.2. Any person who commits an offence is liable on conviction in the Magistrates' Court to a fine not exceeding level 3 on the standard scale

6. Penalty

- 6.1. An Authorised Officer may issue a fixed penalty notice of up to £100 to anyone who he or she has reason to believe has committed an offence under the Act
- 6.2. If the fixed penalty notice is not paid the person to whom it is issued remains liable upon conviction to a fine

7. Right of Appeal

- 7.1. If any Interested Person wishes to question the validity of this Order, they may do so by applying to the High Court on the grounds that the Council did not have power to make the Order or to include particular prohibitions or requirements imposed by the Order; or that a requirement under Chapter 2 of the Act was not complied with.
- 7.2. An application to the High Court must be made within the period of 6 weeks beginning with the date on which the Order is made

**EXECUTED AS A DEED by affixing
THE COMMON SEAL of
TUNBRIDGE WELLS BOROUGH COUNCIL**

This 23rd day of June 2022

3984



In the presence of

A handwritten signature in blue ink, appearing to read 'D. W. ...'.

Authorised Officer:

TUNBRIDGE WELLS BOROUGH COUNCIL (DOG CONTROL) PUBLIC SPACES PROTECTION ORDER (NO.6 OF 2022)

SCHEDULE OF LAND – SCHEDULE 1

This order applies to all the land within the boundary edged red (“Restricted Area”) known as Dunorlan Park, with the exception of the “Unrestricted Area” shown hatched blue and labelled “unrestricted exercise area for dogs off leads”.

Dunorlan Park

