



# South Somerset District Council

## The Anti-social Behaviour, Crime and Policing Act 2014

### Public Spaces Protection Order

South Somerset District Council – Prohibition on Street Drinking by Direction Public Spaces Protection Order 2015

South Somerset District Council in exercise of its powers under Section 59 and 72 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) hereby make the following order:-

**THIS ORDER** is made by South Somerset District Council (“the Council) because the Council is satisfied on reasonable grounds that;

- activities carried on or likely to be carried on in a public place have had or are likely to have a detrimental effect on the quality of life of those in the locality
- the effect or likely effect of the activities is or is likely to be, of a persistent or continuing nature,
- the effect or likely effect of the activities is or is likely to be, such as to make the activities unreasonable, and
- justifies the restrictions imposed by the notice

**The Public Open Space** to which this order applies is all public places (areas the public or any section of the public on payment or otherwise, have access to as of right or by virtue of express or implied permission ) in the administrative area of South Somerset and is referred to as (“the restricted area”) as shown edged black on the attached plan, but does not include private Land (to which the public may have access).

**This Order** comes into force on (DATE TO BE CONFIRMED FOLLOWING CONSULTATION)

**This Order** applies to the public space outlined in black on the plan contained within Appendix 1 to this order (the Restricted Area)

### The Requirement

1. No person shall fail to stop consuming alcohol when required to do so by a Police Officer, Police Community Support Officer or an authorised officer from the Council.
2. No person shall fail to surrender anything in their possession which a Police Officer, Police Community Support Officer or authorised officer from the Council reasonably believes to be alcohol or a container for alcohol when required to do so.

**Duration of Order**

This order shall remain in force for a period of three years unless extended under section 60 of the Act 2014

**Appeal**

An interested person may apply to the High Court to question the validity of this order on the ground that the local authority did not have power to make the order or that it has not complied with a requirement of the Act. An Appeal must be made within 6 weeks of the date on which the order is made.

Dated .....

The Common Seal of etc

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Solicitor to the Council

DRAFT

## **For Information**

Offences – s63 of the Act      Consumption of alcohol in breach of prohibition in order

- (1) This section applies where a constable or an authorised person reasonably believes that a person -  
P
- a) is or has been consuming alcohol in breach of a prohibition in a public spaces protection order, or
  - b) intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition

In this section “authorised person” means a person authorised for the purposes of this section by the local authority that made the public spaces protection order (or authorised by virtue of section 69(1)).

(2) The constable or authorised person may require P

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

(3) A constable or an authorised person who imposes a requirement under subsection (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.

(4) A requirement imposed by an authorised person under subsection (2) is not valid if the person—

- a) is asked by P to show evidence of his or her authorisation, and
- b) fails to do so.

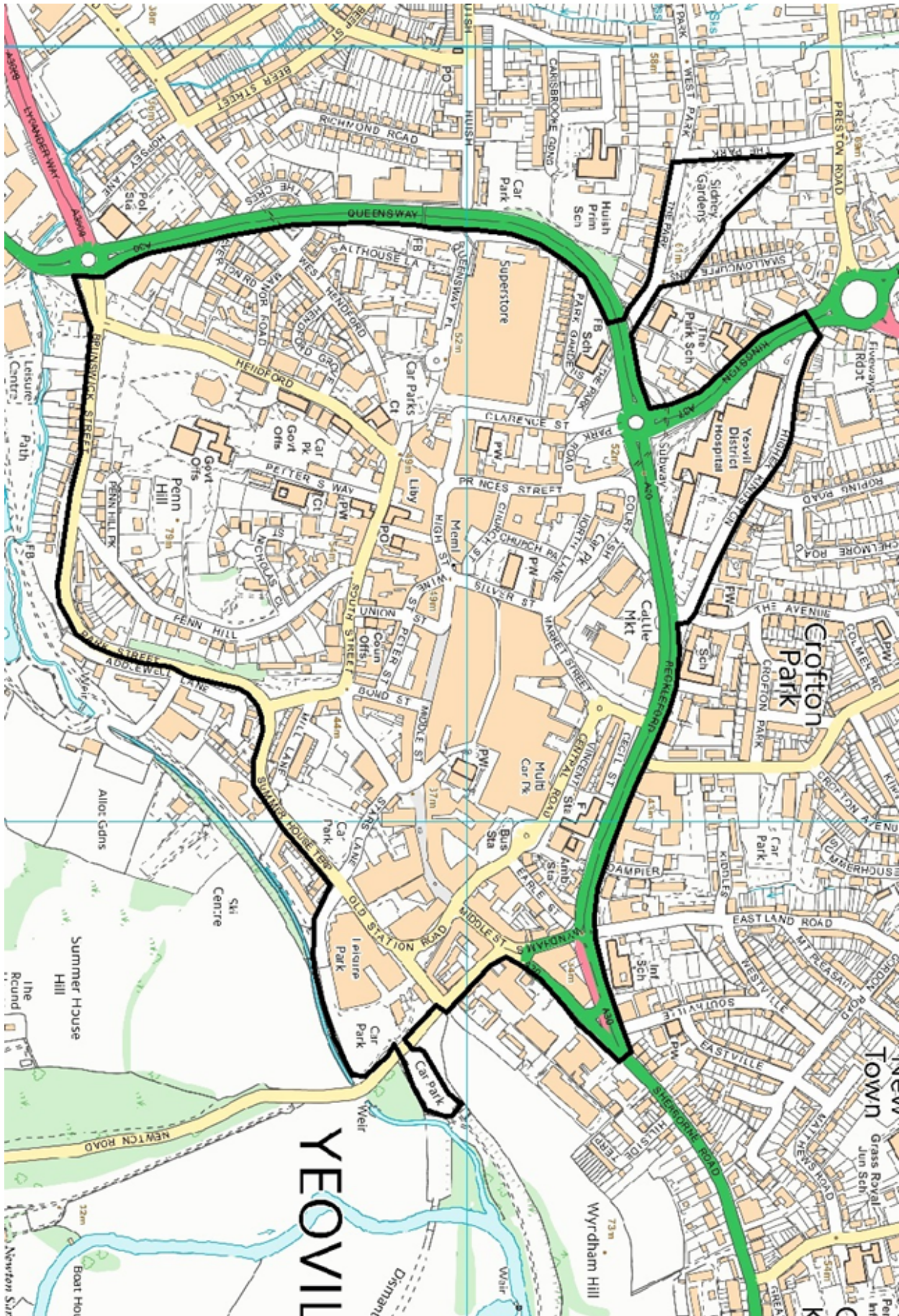
(5) A constable or an authorised person may dispose of anything surrendered under subsection (2)(b) in whatever way he or she thinks appropriate.

(6) A person who fails without reasonable excuse to comply with a requirement imposed on him or her under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Fixed Penalty – s68 of the Act

A constable or authorised person may issue a fixed penalty notice to anyone he or she believes has committed an offence by not complying with a requirement of this order. 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.

Appendix 1: Restricted Area



## Appendix 2 – Exemptions

### Section 62 Premises etc to which alcohol prohibition does not apply

- (1) A prohibition in a public spaces protection order on consuming alcohol does not apply to—
- a) 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 by the Club for the supply of alcohol;
  - c) a place within the curtilage of premises with paragraph (a) or (b);
  - d) Premises which by virtue of Pt 5 of the Licensing Act 2003 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 s 115E of the Highways Act 1980 (highway related uses).
- (2) A prohibition in a public spaces protection order on consuming alcohol does not apply to council-operated licensed premises—
- (a) when the premises are being used for the supply of alcohol, or
  - (b) within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.
- (3) In this section—
- “club premises certificate” has the meaning given by section 60 of the Licensing Act 2003;  
“premises licence” has the meaning given by section 11 of that Act;  
“supply of alcohol” has the meaning given by section 14 of that Act.
- (4) For the purposes of this section, premises are “council-operated licensed premises” if they are authorised by a premises licence to be used for the supply of alcohol and—
- (a) the licence is held by a local authority in whose area the premises (or part of the premises) are situated, or
  - (b) the licence is held by another person but the premises are occupied by a local authority or are managed by or on behalf of a local authority.