

APPENDIX 1

DARLINGTON BOROUGH COUNCIL

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

PUBLIC SPACES PROTECTION ORDER – DARLINGTON TOWN CENTRE Number 1 of 2019

Notice is hereby given that Darlington Borough Council (“the Council”) in exercise of its powers under sections 59, 63, & 72 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) being satisfied that the conditions set out in section 59 of the Act have been met, make the following order:-

PRELIMINARY

1. The Order applies to the land described by the map attached at Schedule 1 and shown edged red, being land in the area of the Council, to which the Anti-Social Behaviour, Crime & Policing Act 2014 applies.
2. The order may be cited as the Darlington Borough Council Public Spaces Protection Order – Darlington Town Centre and shall come into force on 1 March 2019 for the duration of 3 years. 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 the activities identified in the Order from occurring or recurring or to prevent an increase in the frequency or seriousness of those activities after that time.
3. The activities identified in paragraph 7 below have been carried out in public places within the Council’s area and have had a detrimental effect to the quality of life of those living in the locality.
4. The Council is satisfied that the conditions set out in sections 59, 63 & 72 of the Act have been met and that it is, in all the circumstances, expedient to make

this Order in order to seek to reduce the detrimental effect on the quality of life of those in the locality caused by the activities listed in paragraph 7 below.

5. The effect or likely effect of these activities is, or is likely to be, of a persistent or continuing nature, such as to make these activities unreasonable, and therefore justifies the restrictions imposed by this Order.
6. The Council has had particular regard to the rights and freedoms set out in Article 10 (right of freedom of expression) and Article 11 (right of freedom of assembly) of the European Convention on Human Rights and has concluded that the restrictions on such rights and freedoms imposed by this Order are lawful, necessary and proportionate.

THE ACTIVITIES

7. The Activities covered by this Order are:-
 - a) Persons drinking alcohol in public places which are not licensed premises
 - b) Begging
 - c) Threatening behaviour
 - d) Swearing
 - e) Obstruction of public access to buildings
8. The effect of this order is to impose the prohibitions on the use of the land as detailed below at all times.

THE PROHIBITIONS

Consuming alcohol in a public place

9. a) Any person who continues drinking alcohol in the designated area when asked to stop by a Police Officer, Police Community Support Officer or Authorised Person from the Council commits an offence.

- b) Any person who fails to surrender any alcohol in his possession when asked to do so by a Police Officer, Police Community Support Officer or Authorised Person from the Council commits an offence.

Begging

10. No person shall sit or loiter on the highway or any pedestrian area for the purpose of begging or asking members of the public for money whether by placing an item before them for receipt of money or otherwise.

Threatening and intimidating behaviour

11. No person shall use threatening or intimidating behaviour towards any other person.

Obstruction

12. No person shall loiter so as to cause an obstruction on a public highway, either moving or stationary.

EFFECT OF FAILING TO COMPLY WITH THIS ORDER

13. It is an offence for a person without reasonable excuse to engage in an activity that is prohibited by this Order.
14. A person guilty of an offence under paragraph 9(a) or 9(b) above, in accordance with section 63 of the Act, is liable on summary conviction to a fine not exceeding level 2 on the standard scale (£500).
15. A person guilty of an offence under paragraphs 10, 11 or 12 above, in accordance with section 67 of the Act, is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1000).

16. The full text of sections 63 and 67 of the Act is set out in Schedule 2 to this Order.

FIXED PENALTY NOTICES

17. A Police Officer, Police Community Support Officer or Authorised Person from the Council may issue a fixed penalty notice to any person he or she believes has committed an offence under section 63 or 67 of the Act. The person will then have 14 days to pay a fixed penalty of £100. If payment is received within 14 days they will not be prosecuted.

CHALLENGING THIS ORDER

18. Any challenge to this Order must be made in the High Court by an interested person within six weeks of it being made. There is further detail regarding this in Schedule 3 attached.

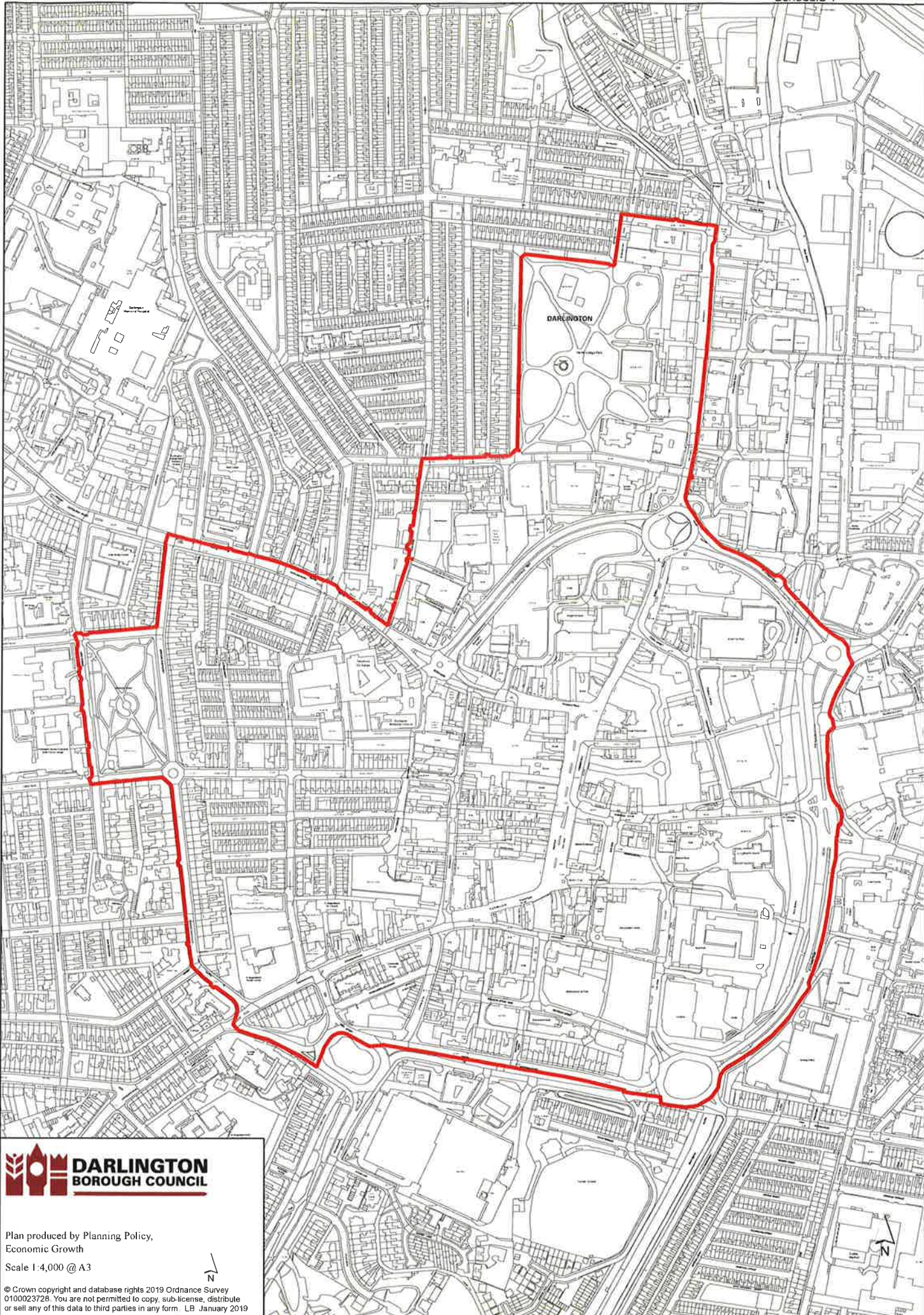
GIVEN under the common seal of
The Council of the Borough of Darlington

On the 8th day of February 2019

THE COMMON SEAL of the
Council of the Borough of Darlington
was hereunder affixed in the presence of :-

John Lister





Plan produced by Planning Policy,
Economic Growth
Scale 1:4,000 @ A3



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Text of section 63 of the Act

(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.

Text of section 67 of the Act

(1) It is an offence for a person without reasonable excuse—

- (a) to do anything that the person is prohibited from doing by a public spaces protection order, or
- (b) to fail to comply with a requirement to which the person is subject under a public spaces protection order.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order.

(4) Consuming alcohol in breach of a public spaces protection order is not an offence under this section (but see section 63).

Challenging this Order (Section 66 of the Act)

1. Any challenge to this Order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. This right to challenge also applies where this Order is varied by the Council.
2. Interested persons can challenge the validity of this Order on two grounds: (1) that the Council did not have the power to make the Order, or to include particular prohibitions or requirements; or (2) that one of the requirements of the legislation has not been complied with.
3. 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.