



**CHESHIRE EAST BOROUGH COUNCIL  
PUBLIC SPACES PROTECTION ORDER  
THE CARRS, WILMSLOW**

Cheshire East Borough Council [the 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 20<sup>th</sup> October 2020 and has a duration of 3 years.

It applies to the public place, or parts of the public place, known as the Carrs Wilmslow **shown edged red on Map A attached to this Order** (hereinafter referred to as 'the Carrs'), 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.

The Council is satisfied on reasonable grounds that it is likely that the activities detailed in Parts 1 to 4 inclusive of this order will be carried out in the Carrs, or parts of the Carrs, which will 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, and is, or likely to be such, as to make the activities unreasonable. The effect of the activities, therefore, justifies the restrictions imposed.

In reaching the above conclusion, the Council has had regard to the number and frequency of penalty enforcement notices issued under previous legislation and subsequent transitional provisions of the Act for like activities justifying the imposition of the restrictions in this order

**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 detailed in Parts 1 to 4 inclusive:**

# PROHIBITIONS

## **Part 1 – Prohibition against failure to remove dog faeces**

1. A person in charge of a dog which defecates at any time on the area of the Carrs edged red on the attached “MAP A” shall contravene this part of this order if that person, without reasonable excuse or the consent of the owner, occupier, or other person or authority having control of the land not to do so, fails to remove the faeces from the land forthwith.
2. 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;

## **Part 2 – Prohibition against exceeding the maximum number of dogs**

3. A person in charge of more than one dog shall contravene this part of this order if that person, without reasonable excuse or the consent of the owner, occupier, or other person or authority having control of the land to do so, at any time takes more than four dogs on to the area of the Carrs edged red on the attached “MAP A”
4. For the purpose of this part of the 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

# REQUIREMENTS

## **Part 3 – Requirement in specified areas to place dogs on lead by direction**

5. A person in charge of a dog on that part of the Carrs hatched in black on the attached “MAP B” shall contravene this part of this order if that person, without reasonable excuse or the consent of the owner, occupier, or other person or authority having control of the land to do so, fails 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
6. For the purposes of this part, “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.
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 and or behaviour by the dog that is likely to cause annoyance or disturbance to any other person, or the worry or disturbance of any animal

#### **Part 4 – Requirement in specified areas to keep dogs on a lead**

8. A person in charge of a dog on that part of the Carrs hatched in black on the attached “MAP C” shall contravene this part of this order if that person, without reasonable excuse or the consent of the owner, occupier, or other person or authority having control of the land to do so, at any time fails to keep the dog on a lead.
9. For the purposes of this part, “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.
10. For the purpose of this part of the 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

#### **Part 5 – Authorised Person**

11. **An authorised person** for example a Police Constable, Police Community Support 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**

#### **Part 6 – Exemptions for Disabled People**

12. The dog fouling provisions in **Part 1** of 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.
13. For the purposes of this Part, 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.

#### **Part 7 – Exemption for working dogs**

14. 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**

- 15. 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.
- 16. 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.

In making this Order the Council certifies that it has had particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights.

**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**

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**

- 1. **MAP A** – Map of area (outlined in red) in which Part 1 (1) and Part 2 (4) of this order apply
- 2. **MAP B** – Map of area (hatched in black) in which Part 3 (5) applies
- 3. **MAP C** – Map of areas (hatched in black) in which Part 4 (8) applies

Signed..... Position .....

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

Dated:.....