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Title: Mill Road Kettering - Public Space Protection Order

Date: 10:08:17

Scale: 1:4700

Drawn by: KBC



**KETTERING BOROUGH COUNCIL****ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014****PART 4, SECTION 59 PUBLIC SPACES PROTECTION ORDER**

Kettering Borough Council in exercise of the power under section 59 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, makes the following order:

Kettering Borough Council (referred to hereafter as "the Council") hereby makes the following Public Spaces Protection Order (PSPO) that applies to any place to which the public have access within the area shown and edged red on the plan annexed to this order (the Prohibition Area) unless otherwise specified.

**1. In this area any person who continues to carry out activities from which they are prohibited commits an offence namely:**

a) Any person within the Prohibition Area is prohibited from, at any time, consuming alcohol or having an open alcohol container after having been requested by an Authorised Officer to cease consumption or hand over the container, unless subject to exemptions listed in item 4.1 below.

b) Persons within the Prohibition Area will not ingest, inject, smoke or otherwise use intoxicating substances. Intoxicating substances being defined as substances with the capacity to stimulate or depress the central nervous system (i.e. alcohol, illegal drugs or psychoactive substances). Psychoactive substances have commonly been referred to previously as 'legal highs'. This paragraph does not prohibit the use of tobacco or prescription medication.

c) Any person in the Prohibition Area is prohibited after having been requested by an Authorised Officer to cease or at any time thereafter during any period that may have been specified by any such Authorised officer from swearing, or shouting in a manner that causes or is likely to cause harassment alarm or distress to any person present at the time (including an Authorised Officer)

**2. Definitions**

- a) Authorised Officer means a Police Constable a Police Community Support Officer or an officer of Kettering Borough Council in possession of an authority to enforce this order
- b) Plan means the plan annexed to this order

**3. Period for which the order has effect**

This Order shall come into force on ..... and remain in place for a period of three years.

**4. What happens if you fail to comply with this order?**

If a person does anything that is lawfully prohibited by the this order , or fails to do something lawfully required by it, he commits an offence under section 67 of the Anti-Social Behaviour Crime and Policing Act 2014 punishable by a level 3 fine being the sum of £1000. Breach of the requirements relating to the consumption of alcohol will be punishable by a level 2 fine, being

the sum of £500 as at the date of this order, unless he has a reasonable excuse. Consumption of alcohol is not an offence unless the requirements of clause 4.1 (a) have been complied with.

**4.1** If an Authorised Officer reasonably believes that a person is, or has been, consuming alcohol in the area covered by this order or intends to consume alcohol in such place or is in possession of an open container of alcohol in such place, the Officer may:

- a) require the person not to consume alcohol and
- b) require the person concerned to surrender anything in his possession which is, or which the Officer reasonably believes to be, alcohol or a container of alcohol.

## **5. Exemptions**

A prohibition in this order on consuming alcohol does not apply to licensed premises as defined in section 62 of the Anti-Social Behaviour Crime and Policing Act 2004.

Signed: .....

Dated: ..... 2017

## **Information (not part of the order)**

### **1. FIXED PENALTY**

A constable or authorised person may issue a fixed penalty notice to anyone he or she believes has committed an offence. A person committing an offence will have 14 days to pay the fixed penalty of £100.00, failing which you may be prosecuted.

### **Appeals**

Any challenges 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 means that only those who are directly affected by the restrictions have the power to challenge. The right to challenge also exists where an order is varied by the Council.

Interested persons can challenge the validity of this order on two grounds: that the Council did not have power to make the order, or to include particular prohibitions or requirements; or that one of the requirements of the legislation, for instance consultation, has not been complied with.

When application is made the High Court can decide to suspend the operation of the order pending the Courts decision, in part or in totally. The High Court has the ability to uphold the order, quash it, or vary it.