

EPSOM AND EWELL BOROUGH COUNCIL

Epsom & Ewell Borough Council (Psychoactive Substances) Public Spaces Protection Order No.1 of 2022

PREAMBLE

Further to public consultation and by decision dated 25 January 2022 :

- A. Epsom & Ewell Borough Council is satisfied that psychoactive substances are being consumed in public places within the Borough and the consumption of such is having a detrimental effect on the quality of life of those in the locality.
- B. Epsom & Ewell Borough Council is also satisfied that it is likely that psychoactive substances will continue to be consumed in these places and that is likely to have a detrimental effect on the quality of life of those in the locality.
- C. Epsom & Ewell Borough Council makes this Public Spaces Protection Order no 1 of 2022: Psychoactive Substances in the terms set out below and in making this Order has had regard to the Human Rights Act 1998 which covers Convention rights of freedom of expression (Article 10), and freedom of assembly and association (Article 11), and has complied with the requirements of the public sector equality duty under the Equality Act 2010.

ORDER

Epsom & Ewell Borough Council makes the following order in exercise of its powers under section 59-61 of the Anti-Social Behaviour, Crime and Policing Act 2014.

1. This Order may be cited as Epsom & Ewell Borough Council (Psychoactive Substances) Public Spaces Protection Order No.1 of 2022 ("the Order"). This Order takes effect on the 1 October 2022 and continues to have effect for a period of 2 years thereafter until 23:59 on 30 September 2024.
2. This Order applies to the land described in the Schedule 1 below ("Restricted Area") and which is shown edged red on the attached plan.
3. This Order applies to all persons in 'public places' within the Restricted Area at all times of the day and night, save on where otherwise stated within the prohibitions.

4. For the purposes of this Order, 'public places' 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.

PROHIBITIONS

- a. Person(s) within the Restricted Area will not: Ingest, inhale, inject, smoke, possess or otherwise use psychoactive substances (e.g. nitrous oxide, solvents and butane) and which is causing or likely to cause harassment, alarm, distress, nuisance or annoyance to members of the public.
- b. Meaning of "psychoactive substance" etc "Psychoactive substance" means any substance which is capable of producing a psychoactive effect in a person who consumes it and is not an exempted substance. For the purposes of this prohibition a substance produces a psychoactive effect in a person if, by stimulating or depressing the person's central nervous system, it affects the person's mental functioning or emotional state.
- c. For the purposes of this prohibition a person consumes a substance if the person causes or allows the substance, or fumes given off by the substance, to enter the person's body in any way. Exemptions shall apply in cases where the substances are used for a valid and demonstrable medicinal use, given to an animal as a medicinal remedy, are nicotine and tobacco (e.g. cigarettes) or vaporisers or are food stuffs regulated by food health and safety legislation.
- d. Persons within the Restricted Area who breach this prohibition shall
 - i. immediately stop consuming any psychoactive substances when asked to do so by an authorised person.
 - ii. surrender any psychoactive substances (e.g. nitrous oxide canisters) in that persons possession to an authorised person.
 - iii. surrender any equipment and paraphernalia being used for the consumption of any psychoactive substance (e.g. a whipped cream dispenser) in that persons possession to an authorised person.

An authorised person could be a police constable, Police Community Support Officer or authorised person designated by Epsom and Ewell Borough Council under a Grant of Authority and must be able to present their authority upon request (an "Authorised Person").

OFFENCE AND PENALTY

- a. Any person who, without reasonable excuse, fails to comply with the prohibitions in a-d above commits an offence.
- b. Any person who is guilty of an offence under prohibitions a-d of the Order shall be liable to summary conviction to a fine not exceeding level 3 on the standard scale.

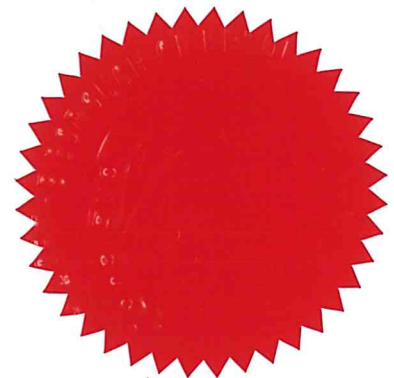
ENFORCEMENT

- a. This Order shall be enforced by Authorised Persons.
- b. Any Authorised Person may issue a fixed penalty notice (FPN) to anyone they believe has committed an offence.
- c. A person committing an offence will have 28 days to pay the fixed penalty of £100.00, reduced to £80.00 or early payment, failing which that person may be prosecuted. No further proceedings will be taken against a person before the expiration of 28 days following the date of the FPN.
- d. An Authorised Person may dispose of anything surrendered to that Authorised Person as a result of a requirement imposed by them in whatever way they think is appropriate.
- e. An Authorised Person may take other necessary and proportionate enforcement action in reference to the Borough's adopted Enforcement Policy. This may include referral to support services, low level enforcement or referral to court action.

CHALLENGING THE MAKING OF THIS ORDER

In accordance with section 66 the Anti-social Behaviour Crime and Policing Act 2014, any challenge to the order must be in the High Court by any interested person within 6 weeks of it being made. An interested person is someone who lives in, regularly works in, or visits the restricted area.

The Common Seal of Epsom & Ewell
Borough Council was affixed in the presence of:



Authorised Officer

Schedule 1: Restricted Area

Restricted Zone Marked in Red (The entire Epsom & Ewell Borough Council area)

