

## PUBLIC SPACES PROTECTION ORDER

### ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 PART 4 CHAPTER 2 SECTION 59

#### BASINGSTOKE AND DEANE BOROUGH COUNCIL (DOG FOULING) PUBLIC SPACES PROTECTION ORDER 2020

Notice is hereby given that Basingstoke and Deane Borough Council ("the Council") in exercise of its powers under Sections 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") and under all other enabling powers, makes the following Order known as:

#### The Basingstoke and Deane Borough Council (Dog Fouling) Public Spaces Protection Order 2020

1. This Order applies to the public places described in Schedule 1 to this Order and shown edged in red on the plans attached.
2. The Council is satisfied that the two conditions below have been met, in that:-
  - 2.1 activities carried on in the Restricted Area as described below have had a detrimental effect on the quality of life of those in the locality, or it is likely that these activities will be carried on in the public place and they will have such an effect;
  - 2.2 the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed by the Order.
3. This Order will come into force on the **1<sup>st</sup> December 2020** and ends on **31<sup>st</sup> November 2023** unless extended, varied or discharged by further Orders under the Council's statutory powers.

#### GENERAL PROVISIONS

- 4, **Definitions**
  - 4.1 "Restricted Area" means the public places described in Schedule 1 to this Order and shown edged in black on the plan attached to this Order
  - 4.2 "Person who is in charge of the dog" the person who habitually has a dog in their possession is taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog
  - 4.3 "Authorised person" means a police officer, an employee of Basingstoke & Deane Borough Council or other person who is authorised in writing by the Council.
  - 4.4 "Public place" means any place in the administrative area of the Council to which the public or a section of the public has access, on payment or otherwise, as of right by virtue of express or implied permission. The administrative area of the Council is the land edged red in Schedule 1.

- 4.5 "Prescribed Charity" Each of the following is a prescribed charity:-
- i) Dogs for Good (registered charity number 1092960);
  - ii) Support Dogs (registered charity number 1088281);
  - iii) Canine Partners for Independence (registered charity number 803680)
  - iv) Dog A.I.D. (Registered Charity Number 1 098619)
  - v) Medical Detection Dogs (Registered Charity Number 1124533)
- 4.6 "Interested Person" means an individual who lives in the restricted area or who regularly works in or visits that area
- 4.7 "Appropriate Means" in relation to the picking up of dog faeces means bags or a poop scoop or similar device carried by the dog owner for the purpose of picking up dog faeces

5. The effect of the Order is to impose the following prohibitions and/or requirements in the Restricted Area at all times:

## 5. PROHIBITIONS

### 5.1 Fouling of Land by Dogs

If a dog defecates at any time on land in the Restricted Area detailed in Schedule 1 of this Order and the person who is in charge of the dog at the time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless –

5.1.1 That person has a reasonable excuse for failing to do so; or

5.1.2 The owner/occupier or other person or authority having control of the Public Place has consented (generally or specifically) to that person failing to do so; or

5.1.3 That person is subject to the exemptions listed in Article 7 below.

### 5.2 Means to Pick Up Dog Faeces

A person in charge of a dog on land in the Restricted Area, shall be guilty of an offence, if, at any time, he does not comply with a direction given to him by an Authorised Officer of the Council to produce an Appropriate Means used to remove dog faeces and transport it to a bin (whether or not the dog has defecated) unless:

5.2.1 That person has a reasonable excuse for failing to do so; or

5.2.2 The owner/occupier or other person or authority having control of the Public Place has consented (generally or specifically) to them failing to do so; or

5.2.3 that person is subject to the exemptions listed in Article 7 below.

The obligation is complied with if, after a request from an Authorised Officer, the person in charge of the dog produces an Appropriate Means to pick up dog faeces.

5.3 For the purposes of Article 5.1 being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having an Appropriate Means to for removing the faeces, shall not be a reasonable excuse for failing to remove the faeces.

## 6. FAILURE TO COMPLY WITH THE ORDER

6.1 Any person who fails without reasonable excuse to comply with any of the requirements or prohibitions at Articles 5.1 and 5.2 in this Order shall be liable on summary conviction to a fine not exceeding level 3 (currently £1000) on the standard scale.

### 6.2. Fixed Penalty

An authorised person may issue a fixed penalty notice to anyone he or she believes has committed an offence. The level of the fixed penalty shall be £100, save that if the fixed penalty is paid within 14 days following the date of the notice, the amount payable is reduced to £75. A person committing an offence and failing to pay the fixed penalty may be prosecuted.

## 8. EXEMPTIONS

8.1 Nothing in this Order or the Schedule to this Order shall apply to a person who:

8.1.1 is registered as a blind person in a register compiled under S29 of the National Assistance Act 1948; or

8.1.2 has a disability as defined by the Equality Act 2010 or its successor and who relies upon an accredited assistance dog trained by an accredited member of Assistance dogs International (ADI) or the International Guide Dog Federation (IGDF) or other Prescribed Charity.

## 9. APPEALS

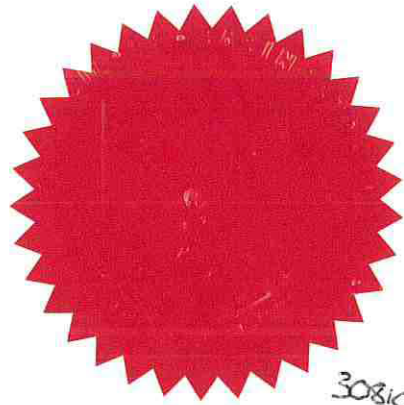
Any challenge to this Order must be made at the High Court by an Interested Person within 6 weeks of it being made.

Interested Persons can challenge the validity of the 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 the requirements under chapter 2 Part 4 of the Anti-Social Behaviour Crime and Policing Act 2014 , have not been complied with.

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.

Dated this            1<sup>st</sup>            day of            December            2020

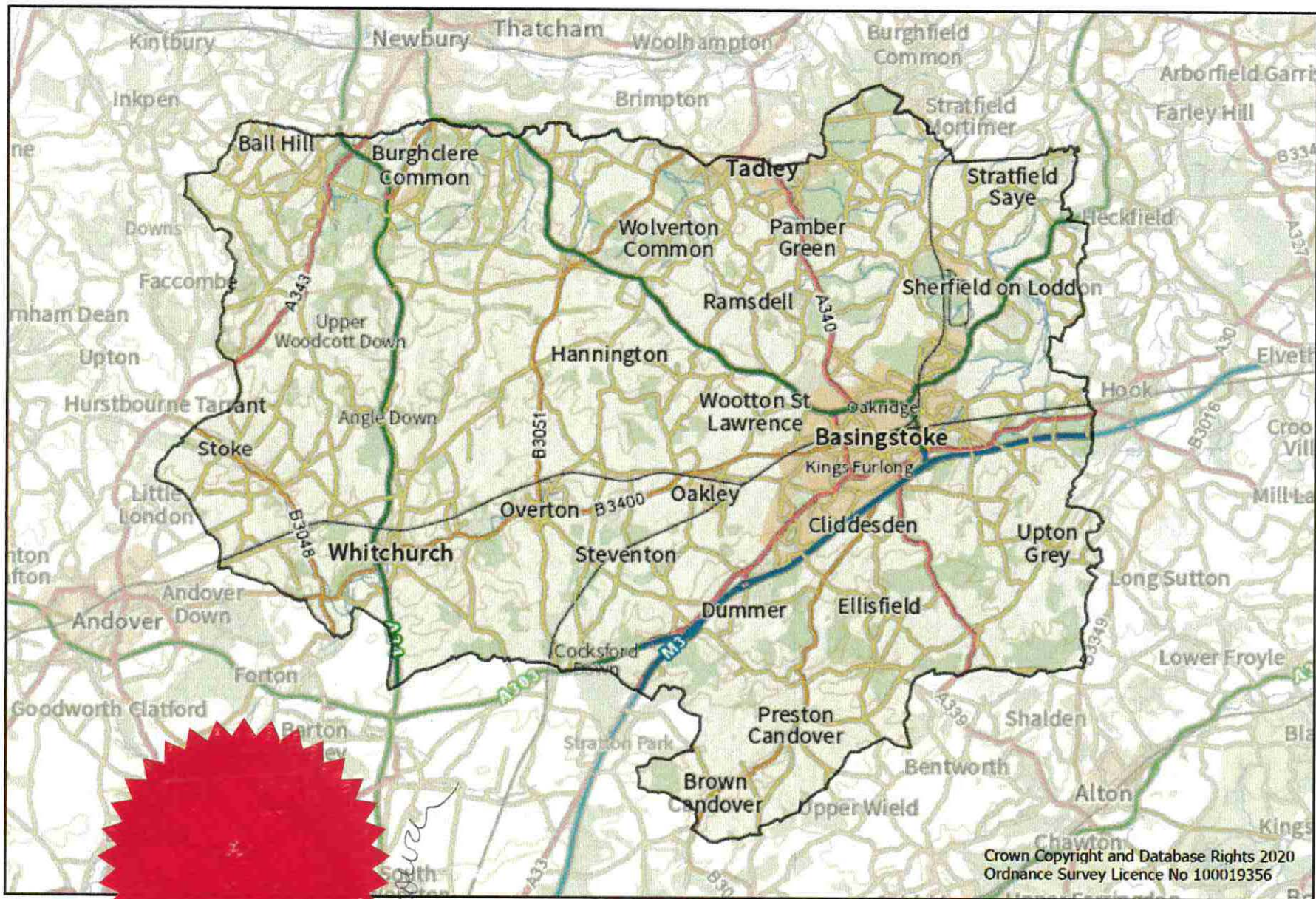
THE COMMON SEAL OF BASINGSTOKE )  
AND DEANE BOROUGH COUNCIL )  
Was hereto affixed in the presence of: )  
)



30810

**SCHEDULE 1  
RESTRICTED AREAS**

All public places within the whole area of Basingstoke and Deane Borough Council as shown in Plan 1.



Plan 1

Flora  
30810

