

## DRAFT PROPOSAL TWO

### THE NORTH YORKSHIRE COUNCIL

#### SCARBOROUGH PUBLIC SPACES PROTECTION ALCOHOL CONSUMPTION, URINATION AND DEFECATION ORDER 2024

The North Yorkshire Council ('the Council'), using its powers conferred by Section's 59 and 60 Anti-social Behaviour, Crime and Policing Act 2014 ('the Act') hereby makes the following Public Spaces Protection Alcohol Consumption, Urination and Defecation Order 2024 ('the Order') to control anti-social behaviour associated with the consumption of alcohol and urination and defecation in public spaces within the town.

#### **PART 1 – GENERAL**

- 1.1 This Order comes into force on .....for a period of 3 years.
- 1.2 Before the expiry of this Order the Council may extend, vary or discharge it in accordance with the provisions of the Act.
- 1.3 This Order applies to all land:
  - (a) Which is open to the air (including land which is covered but open to the air on at least one side);
  - (b) To which the public are entitled or permitted to have access (with or without payment); and
  - (c) Which is outlined in blue and red on the maps attached as the Schedule to this Order ('the restricted area').
- 1.4 In making this Order the Council is satisfied on reasonable grounds that-
  - (a) the activities covered by this Order have been carried on in a public place within the Council's area and have had a detrimental effect on the quality of life of those in the locality; and
  - (b) 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.
- 1.5 The Council is also satisfied that the prohibitions and requirements set out within this Order are reasonable-

- (a) to prevent the detrimental effect on the quality of life of those in the locality continuing, occurring or recurring; or
  - (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
- 1.6 In making this Order the Council has had particular regard to the rights and freedoms of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights.
- 1.7 An 'Authorised person' means a person authorised in writing by the Council to enforce this order.
- 1.8 An Authorised person may, if they have delegated authority to do so, issue fixed penalty notice to any person they have reason to believe has committed an offence under this order.
- 1.9 Constables and Police Community Support Officers can also enforce the order, to include issuing Fixed Penalty Tickets.

### **Fixed Penalties**

- 1.10 A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging and liability to conviction for the offence by payment of the fixed penalty to the Council.
- 1.11 Where a person is issued with a fixed penalty notice under this Order-
- (a) No proceedings may be taken for the offence before the end of the period of 14 days following the date of the notice;
  - (b) The person may not be convicted of the offence if the person pays the fixed penalty in full before the end of that period.

### **Part 2 - Prohibition in relation to alcohol consumption**

- 2.0 The consumption of alcohol is prohibited within the area edged red (the street alcohol prohibition zone). This includes any place to which the public have access, on payment or otherwise, as of right or by virtue of express or implied permission.

- 2.1 The consumption of alcohol in a manner that causes, or is likely to cause, harassment, alarm or distress to any person is prohibited in all public spaces in the area edged blue including 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.
- 2.2 The order has two enforcement regimes. The area edged red (the street drinking prohibition zone) has a total prohibition on the consumption of alcohol. The wider area edged blue only prohibits the consumption of alcohol in a manner that causes, or is likely to cause, harassment, alarm or distress.
- 2.3 A Constable, PCSO or Authorised person may require any person who they reasonably believe to be consuming alcohol in breach of the prohibition in paragraph 2.0 or 2.1 to cease consuming alcohol and to surrender any alcohol or anything which is reasonably believed to be alcohol in his or her possession in any open or closed container.
- 2.4 A requirement imposed by an Authorised person under Para 2.3 is not valid if the Authorised Person is asked by the person to show evidence of their authorisation and fails to do so.
- 2.5 A Constable, PCSO or an authorised person may dispose of anything surrendered under Paragraph 2.3 in whatever way they think appropriate.
- 2.6 **Premises to which alcohol prohibition does not apply**  
This Part of the Order does not apply to the consumption of alcohol on or in the following places-
- (a) Premises (other than Council operated licensed premises) authorised by a premises licence to be used for the supply of alcohol;
  - (b) Premises authorised by a club premises certificate to be used by the club for the supply of alcohol;
  - (c) A place within the curtilage of premises within Paragraph (a) or (b);
  - (d) Premises which by virtue of Part 5 of the Licensing Act 2003 may at the relevant time be used for the supply of alcohol or which, by virtue of that Part, could have been so used within 30 minutes before that time;
  - (e) A place where facilities or activities relating to the sale or consumption of alcohol are at the relevant time permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (highway-related uses);
  - (f) Council operated licensed premises- (i) when the premises are being used for the supply of alcohol; or (ii) within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.

## **Offence and penalty**

- 2.7 A person who fails to comply without reasonable excuse with any requirements of a Constable, PCSO or an authorised person-
- (a) To cease consumption of alcohol or anything which the constable, PCSO or authorised person reasonably believes to be alcohol; or
  - (b) To surrender anything in their possession which is, or which the constable or authorised person reasonably believes to be alcohol or a container for alcohol;

On Land to which this Order applies commits an offence.

- 2.8 Any person who fails without reasonable excuse to comply with any requirement under para 2.7 above commits an offence under section 63 Anti-social Behaviour, Crime, and Policing Act 2014 and is liable to receive a £100 Fixed Penalty Notice or be prosecuted and fined up to £500 upon conviction by a Magistrates Court.

## **Prohibition and Offence – Urination and Defecation**

- 3.0 A person commits an offence if at any time they urinate and/or defecate without reasonable excuse for doing so on or within Land to which this order applies
- 3.1 The offence can be committed in both the area edged red and also the area edged blue.
- 3.2 Any person who commits an offence under Paragraph 3.0 and s67 Anti-Social Behaviour Crime and Policing Act 2014 is liable to receive an £100 Fixed Penalty Notice or to be prosecuted and fined up to £1000.

## **Challenging the validity of orders**

An interested person may apply to the High Court to question the validity of-

- a) This order, or
- b) A future variation of this order.

“Interested person” means an individual who lives in the restricted area or who regularly works in or visits that area.

An appeal against this Order or a future variation of this Order may be made to the High Court within six weeks from the date on which the order or variation is made, on the grounds that:

- a) North Yorkshire Council did not have power it make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied);
- b) A requirement under Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014 was not complied with in relation to the order or variation.

The **COMMON SEAL** of the **North Yorkshire Council**  
was hereunto affixed on the

Dated 2024

In the presence of

Authorised signatory

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