



**High Peak Borough Council**

*working for our community*

**PUBLIC SPACES PROTECTION ORDER (Pavilion Gardens) 2017**

**Section 59 Anti-Social Behaviour Crime and Policing Act 2014**

The High Peak Borough Council hereby makes the following Order:

1. This Order comes into force on 13<sup>th</sup> June 2017 and will last for a period of three years.
2. This Order applies to the land specified in the Schedule.

**Purpose**

3. The Order is intended is to help to stop or reduce activities that have had a detrimental effect on the quality of life of those in the locality, including criminal damage, attempted trespass, foul and abusive language, underage drinking, and other forms of nuisance.

**Offence**

4. Under the terms and restrictions of the Public Spaces Protection Order the following is prohibited:
  - a) Entering the covered, lower level of the Pavilion Gardens car park (also known as the Undercroft) at any time after the car park's official closure time (as displayed on notices within the car park and/or indicated by the erection of barriers across the entrance/exit to the car park). This does not apply to any officer attending in an official capacity for the purpose of public safety or other purposes linked to the safe and effective running of the car park.
  - b) Loitering in Pavilion Gardens car park (upper or lower levels) at any time. For avoidance of doubt, this includes the pedestrian walkway that forms the eastern boundary of the car park.
  - c) Loitering in the Don Redfern Memorial Bandstand. For avoidance of doubt, this includes the bandstand steps.
  - d) Loitering in the toddler play area (including the adjacent swings and roundabout). For the avoidance of doubt, waiting within the play area for the purpose of supervising one or more young people under the age of 7 who are making use of the play facilities is not classed as loitering.

- e) Riding bicycles in the toddler play area (including the adjacent swings and roundabout).
- f) Smoking in the toddler play area (including the adjacent swings and roundabout)
- g) Permitting a dog to enter the enclosed (fenced) section of the toddler play area. The offence does not apply to a person who is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948, to a deaf person in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358), or to a person who has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by Dogs for the Disabled (registered charity number 700454), Support Dogs (registered charity number 1088281) or Canine Partners for Independence (registered charity number 803680) and upon which he relies for assistance.
- h) Engaging in, promoting, encouraging or assisting in activities of excessively revving car engines in the Pavilion gardens car park (upper and lower levels) such as to cause a nuisance to others, vehicle racing, 'doughnutting', drifting, wheel spinning or other forms of vehicle nuisance.
- i) Lighting, throwing or otherwise setting off fireworks such as to cause noise or other nuisance.
- j) Using foul or abusive language.
- k) Consuming alcohol or being in the possession of alcohol in an unsealed container within Pavilion Gardens car park (upper and lower levels), the Don Redfern Memorial Bandstand, or the toddler play area and adjacent swings.

Where a constable or an authorised person reasonably believes that a person is or has been consuming alcohol in breach of a prohibition in a public spaces protection order, or intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition.

The constable or authorised person may require that person—

- (i) not to consume, in breach of the order, alcohol or anything which the constable or authorised person reasonably believes to be alcohol;
- (ii) 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.

In this section "authorised person" means a person authorised for the purposes of this section by the local authority that made the public spaces protection order (or authorised by virtue of section 69(1) of the Anti-Social Behaviour, Crime and Policing Act 2014).

- l) Behaving in a manner that causes, or is likely to cause, alarm, distress or harassment to others.

## Penalty

5. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

6. In respect of activity k above, namely consuming, or intending to consume, alcohol within a prohibited area in breach of the Order, it is an offence if a person fails, without any reasonable excuse, to comply with an authorised person's request as set out in k (i) and (ii) above. An authorised person who imposes a requirement under k (i) or (ii) must tell the person that failing without reasonable excuse to comply with the requirement is an offence. In the event of such a failure, a person will commit a criminal offence for which the maximum penalty upon summary conviction is a fine not exceeding level 2 on the standard scale.


## Challenging the Validity of the Order

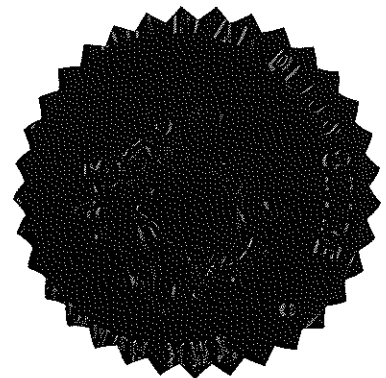
**7. If any interested person desires to question the validity of this Order on the grounds that the Council has no power to make it or that any requirement of the Act has not been complied with in relation to this Order, he or she may apply to the High Court within six weeks from the date on which this order is made**

IN WITNESS whereof the Common Seal of High Peak Borough Council was hereunto affixed the day and year first before written

THE COMMON SEAL of  
HIGH PEAK BOROUGH COUNCIL

was affixed hereto in the presence of

  
Solicitor



## SCHEDULE

This Order applies to the upper and lower levels of Pavilion Gardens car park including the pedestrian walkway that forms the eastern boundary of the car park (edged in red on the attached map), the Don Redfern Memorial Bandstand including the bandstand-steps (edged in blue on the attached map), and the toddler including the adjacent swings and roundabout (edged in yellow on the attached map).

**Guidance Note**

This note is not part of the Public Spaces Protection Order but is included as guidance to police officers and others about its application and interpretation.

Loitering would be constituted where a person remains in or hangs around in an area without any apparent or legitimate reason for doing so.



High Peak Borough Council

working for our community

