

# THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

## SWALE BOROUGH COUNCIL

### PUBLIC SPACES PROTECTION ORDER (NO. 1 OF 2023)

#### DOG CONTROL

In exercise of its powers under sections 59 and 60 of the Anti -Social, Crime and Policing Act 2014("the Act") Swale Borough Council hereby makes the following extension to the 2020 Orders – Fouling of Land by Dogs, Dogs on Lead, Dogs Exclusion and Dogs on Leads by Direction.

This Order is made by Swale Borough Council ("the Council") and may be cited as the **Public Space Protection Order – Dog Control (No 1 of 2023)** ("the Order").

1. This Order shall come into force on **20<sup>th</sup> October 2023** and shall have effect for a period of 3 years thereafter, unless extended by further order under the Council's statutory powers
2. This Order is made by the Council in exercise of its powers under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") having carried out the necessary consultation and being satisfied on reasonable grounds that:
  - a. The activities identified below have been carried on in a public place within the restricted area and have had a detrimental effect on the quality of life of those in the locality, or it is likely that the activities will take place and that they will have a detrimental effect; and
  - b. The effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, such as to make the activities unreasonable and justifies the restrictions imposed by the Order
3. The Council has had regard to the rights and freedoms under Article 10 (freedom of expressions) and Article 11 (freedom of assembly and association) as set out in the European Convention on Human Rights and is satisfied that the restrictions imposed by this Order are lawful, necessary and proportionate.

#### DOG FOULING –

4. This part of the Order applies to any public place within the administrative area of Swale Borough ("the restricted area")

**Schedule 1** – plan attached of the administrative area of Swale Borough

5. If a dog defecates at any time in the restricted area a person who is in charge of the dog at that time must remove the faeces from the land forthwith unless:
  - a. They have a reasonable excuse for failing to do so, or
  - b. The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to the failure to do so

6. Placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be sufficient removal from the land
7. Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise) or not having a device for, or other suitable means of, removing the faeces shall not be a reasonable excuse for failing to remove the faeces
8. Nothing in this part of the Order applies to a person who:
  - a. Is registered as a blind person in a register compiled under Section 77(1) of the Care Act 2014 or
  - b. Has a disability which affects their mobility, manual dexterity, physical coordination, or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance. Each of the following is a "prescribed charity"
    - Dogs for the Disabled (registered charity number 700454)
    - Support Dogs (registered charity number 1088281)
    - Canine Partners for Independence (registered charity number 803680)

#### **DOGS ON LEADS –**

9. This part of the Order relates to any public place at:
  - a. Sittingbourne Cemetery, Bell Road ("the restricted area")
  - b. Sittingbourne Cemetery (Capel Road Extension) ("the restricted area")
  - c. Murston Church Cemetery ("the restricted area")
  - d. Iwade Cemetery ("the restricted area")
  - e. Sheppey Cemetery, Western Avenue ("the restricted area")
  - f. Faversham Cemetery, Love Lane ("the restricted area")
  - g. Promenades within the administrative area of Swale Borough ("the restricted area")

#### **Schedule 2 – plans attached of the restricted areas.**

10. A person in charge of a dog in the restricted areas listed at paragraph 9 (a-c) must keep the dog on a lead at all times unless:
  - a. They have a reasonable excuse for failing to do so, or
  - b. The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to the failure to do so
11. A person in charge of a dog in the restricted area listed at paragraph 9 (d) must be kept on a lead on the promenade between **1st May and 30th September** each year unless:
  - a. They have a reasonable excuse for failing to do so, or
  - b. The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to the failure to do so

#### **DOG EXCLUSION –**

12. This part of the Order relates to any public place:

- a. Which comprises any securely fenced (and/or hedged and/or walled) children's play area and any securely fenced (and/or hedged and/or walled) sporting or recreational facility which is clearly signed at its entrance(s) as a "dog exclusion area" (whether the sign uses those particular words or words and/or symbols having like effect) within the administrative area of Swale Borough ("the restricted area")
- b. On specific beaches within the administrative area of Swale Borough at certain times of the year ("the restricted area")

**Schedule 3 – plans attached of the restricted areas**

13. A person in charge of a dog in the restricted areas listed at paragraph 12 (a) must not take or allow the dog in the restricted area at any time unless:

- a. They have a reasonable excuse for failing to do so, or
- b. The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to the failure to do so

14. A person in charge of a dog in the restricted areas listed at paragraph 12 (b) must not take or allow the dog in the restricted area between **1 May and 30 September** each year unless:

- a. They have a reasonable excuse for failing to do so, or
- b. The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to the failure to do so

15. Nothing in this part of the Order applies to a person who:

- a. Is registered as a blind person in a register compiled under Section 77(1) of the Care Act 2014 or
- b. Has a disability which affects their mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance. Each of the following is a "prescribed charity"
  - Dogs for the Disabled (registered charity number 700454)
  - Support Dogs (registered charity number 1088281)
  - Canine Partners for Independence (registered charity number 803680)

**DOGS ON LEADS BY DIRECTION**

16. This part of the Order applies to any public place within the administrative area of Swale Borough ("the restricted area")

**Schedule 4 – plans attached of the restricted areas**

17. A person in charge of a dog in the restricted area must at all times comply with a direction given to them by an authorised officer of the Authority to put and keep the dog on a lead, unless:

- a. They have a reasonable excuse for failing to do so, or
- b. The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to the failure to do so

18. An authorised officer of the Authority may only give a direction under this part of the Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person in the restricted area or the worrying or disturbance of any animal or bird.

#### **OFFENCE OF FAILING TO COMPLY –**

19. It is an offence for a person without reasonable excuse to:
- a. Do anything that the person prohibited from doing by the Order, or
  - b. Fail to comply with a requirement to which the person is subject under the Order.
20. Any person who commits an offence is liable on conviction in the Magistrates' Court to a fine not exceeding level 3 on the standard scale.

#### **FIXED PENALTY NOTICES –**

21. An authorised officer may issue a Fixed Penalty Notice (FPN) of £100 to anyone who they have reason to believe has committed an offence under the Act.
22. If the FPN is not paid the person to whom it is issued remains liable upon conviction to a fine.

#### **RIGHT OF APPEAL –**

23. If any interested person wishes to question the validity of this Order they may do so by applying to the High Court on the grounds that the Council did not have the power to make the Order or to include particular prohibitions or requirements imposed by the Order; or that a requirement under Chapter 2 of the Act was not complied with
24. An application to the High Court must be made within the period of 6 weeks beginning with the date on which the Order is made.

#### **DEFINITIONS –**

**“Authorised officer”** means a Police Constable or an officer conferred with the duties of a Police Constable or an officer with delegated authority from the Council to enforce the Order.

**“In charge of a dog”** means a person who habitually has a dog in their possession unless at that time some other person is in charge of the dog.

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

**“Public place”** means any place open to the air and to which the public are entitled or permitted to have access (with or without payment). Any land that is covered shall be treated as land that is 'open to the air' if it is open to the air on at least one side. A public place can include, any clearly defined made up pathway that is surfaced by

tarmac, gravel, shingle or concrete and any groomed grass area beside said pathway.

**GIVEN under the Common Seal of Swale Borough Council on the 10th day of October 2023**



**THE COMMON SEAL of Swale Borough Council:**

Was hereunto affixed in the presence of:

ROBYN HARRIS

## Schedule 1



## Schedule 2

This part of the Order applies to the restricted areas above at paragraph 9

**Cemeteries** - as listed in paragraph 9 (a-c)

**Promenades** - in accordance with paragraph 9 (d) - current locations where dogs must be kept on a lead between 1 May and 30 September each year are:

## Sheerness



### Location of the Sheerness PSPO

**The Promenade** highlighted in **RED** from an imaginary line at 90 degrees from the centre point of the headland Jacobs Bank eastward to an imaginary line at 90 degrees from the west side of the steps leading over the sea wall immediately to the east of Sheerness Swimming Pool. This includes all concreted areas of the Promenade and the slope and steps.



## Minster Leas



### Location of the Minster Leas PSPO

The Promenade shown in RED above from an imaginary line at 90 degrees from the east side of the Playa Public House eastwards to an imaginary line at 90 degrees from the west side of the vehicle ramp leading to the beach, opposite the Little Oyster Cafe at 4 Seaside Avenue. The PSPO enforcement does not include the area of grass expanse between the concrete Promenade up to the main road on The Leas.



## Leysdown on Sea



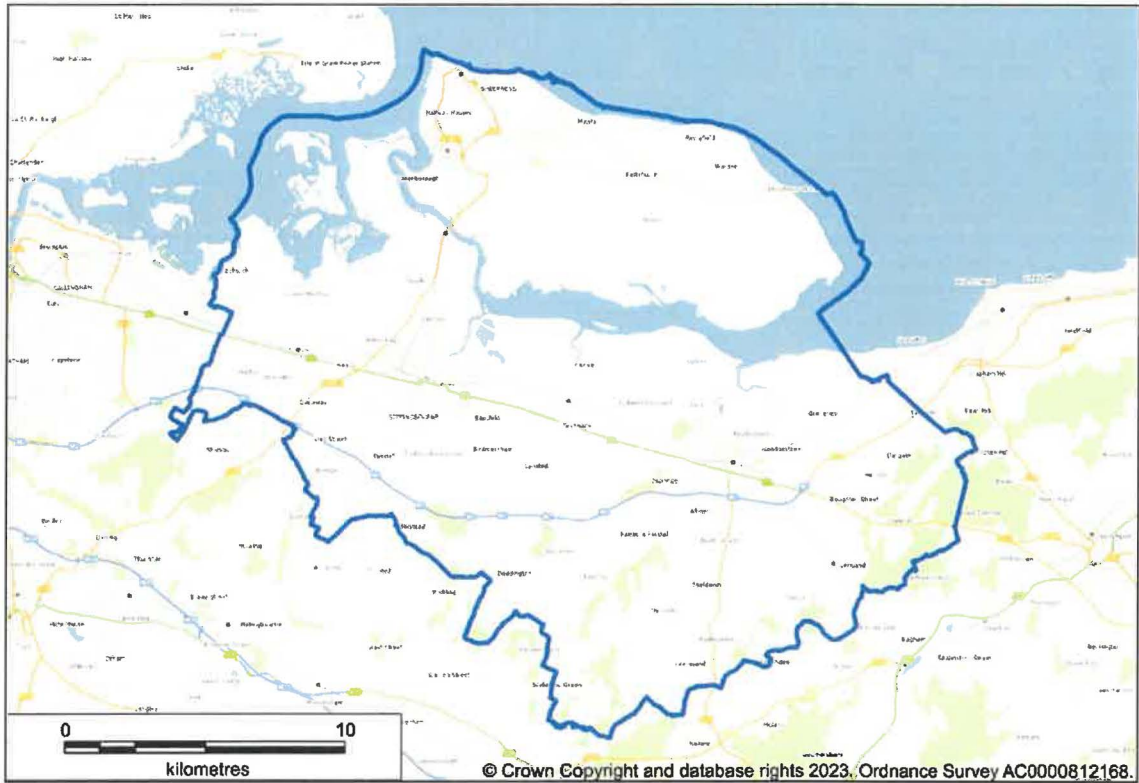
### Location of the Leysdown on Sea PSPO

The Promenade shown above in RED from an imaginary line at 90 degrees from Stokes Amusements, eastwards to an imaginary line at 90 degrees from the west of the beach steps opposite the small roundabout at the seaward end of The Promenade Road, Leysdown.

### Schedule 3

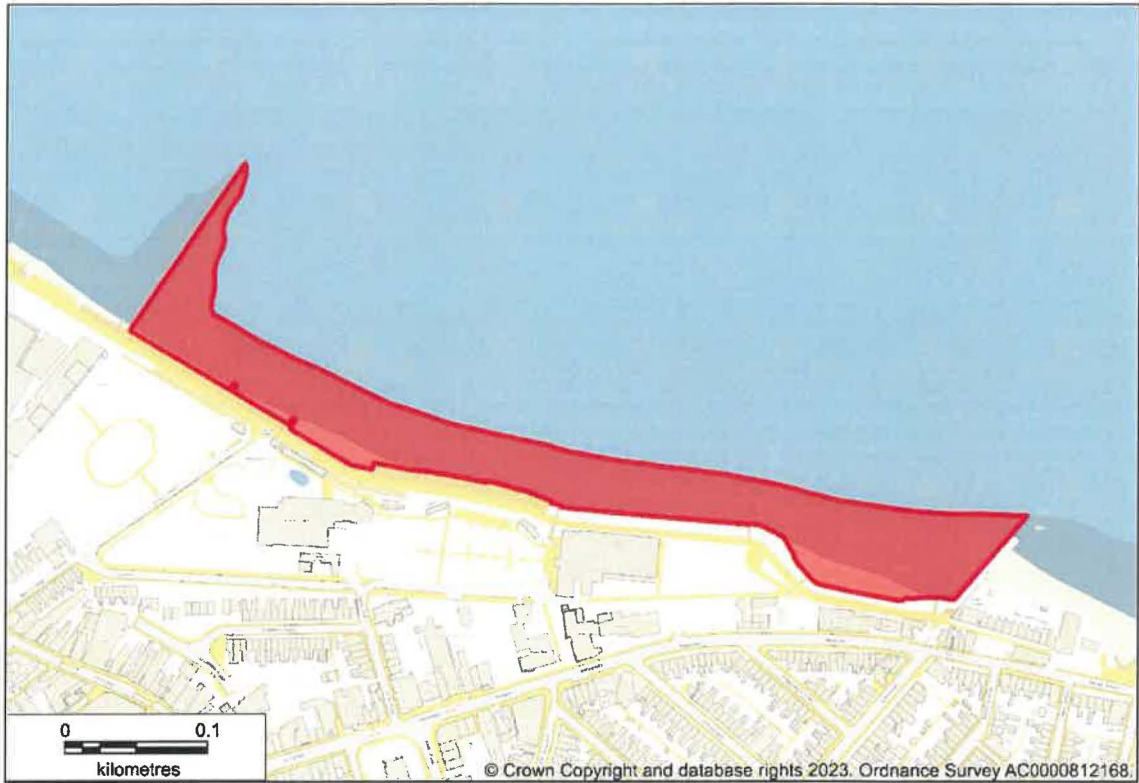
This part of the Order applies to the restricted areas above at paragraph 12

**Dog exclusion area** - as defined in paragraph 12 (a)



**Beaches** - in accordance with paragraph 12 (b) - current locations where dogs are prohibited between 1 May and 30 September each year:

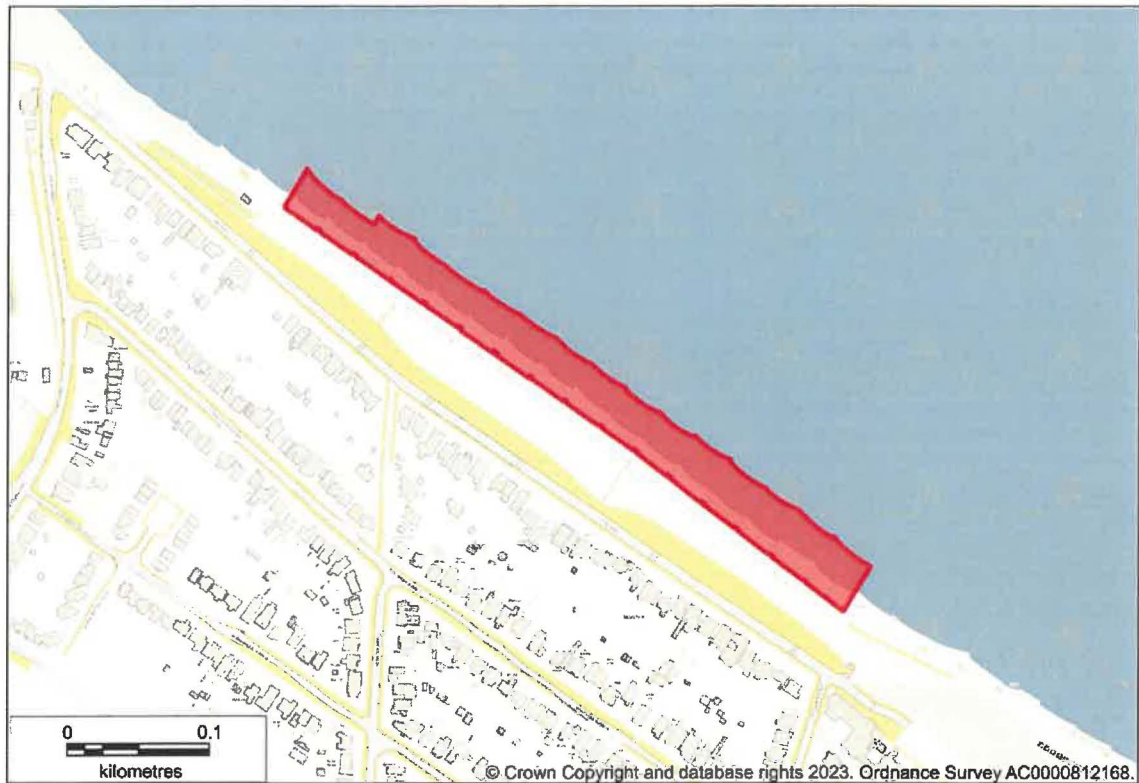
## Sheerness



### Location of the Sheerness PSPO

The beach shown above in RED from an imaginary line at 90 degrees from the centre point of the headland Jacobs Bank eastward to an imaginary line at 90 degrees from the west side of the steps leading over the sea wall immediately to the east of Sheerness Swimming Pool.

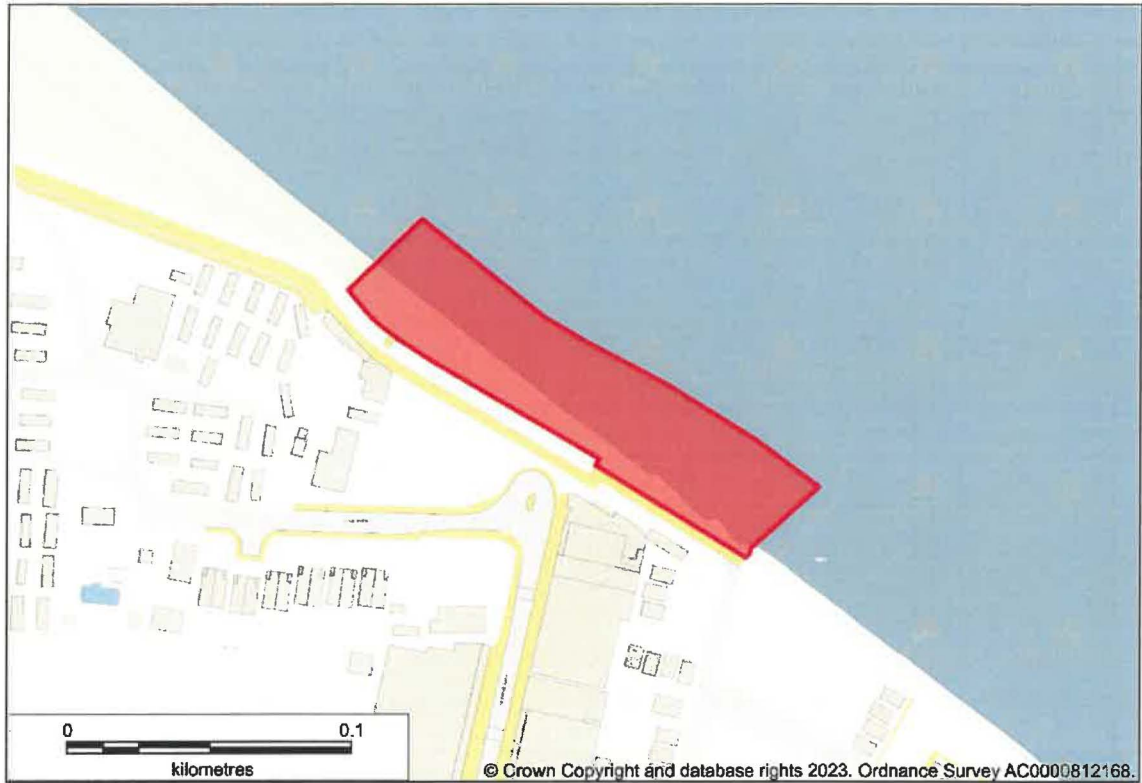
## Minster Leas



### Location of the Minster Leas PSPO

The beach shown above in **RED** from an imaginary line at 90 degrees from the east side of the Playa Public House eastwards to an imaginary line at 90 degrees from the west side of the vehicle ramp leading to the beach, opposite the Little Oyster Café at 4 Seaside Avenue.

## Leysdown on Sea



### Location of the Leysdown on Sea PSPO

The beach shown above in RED from an imaginary line at 90 degrees from Stokes Amusements, eastwards to an imaginary line at 90 degrees from the west of the beach steps opposite the small roundabout at the seaward end of The Promenade Road, Leysdown.



## Schedule 4 Swale Borough Boundary

