

Report To:	CABINET	DATE:	14 JUNE 2018
Heading:	PUBLIC SPACES PROTECTION ORDER (PSPO) - CONSULTATION		
Portfolio Holder:	COUNCILLOR CHRISTIAN CHAPMAN – CABINET MEMBER (JOINT FOCUS)		
Ward/s:	ALL		
Key Decision:	YES		
Subject to Call-In:	YES		

Purpose of Report

The Anti-social Behaviour, Crime and Policing Act 2014 created powers to introduce Public Spaces Protection Order(s). The Order enables Authorised Officers and Police to take specific action in within a defined area as set out within PSPO. The purpose of the report is to

1. Seek approval from Cabinet to authorise the necessary consultation and notification for the extension and variation of the existing PSPO which came into effect 1 October 2015, expiring 30 September 2018;
2. Authorise the Director of Place and Communities to carry out the necessary consultation and notification for variation of the existing car cruising PSPO which came into effect 4 May 2018 subject to sufficient evidence being gathered in line with the requirements under Section 59 of the Act.

Recommendation(s)

1. **Authority for the Director of Place and Communities to carry out the necessary consultation and notification of the proposed extension and variation of the existing PSPO which came into effect 1 October 2015.**
2. **To carry out evidence gathering on car cruising activities in areas of the district not covered by the existing PSPO and on the basis of sufficient evidence being gathered, the Director of Place and Communities be authorised to carry out the necessary consultation and notification for variation of the existing PSPO.**
3. **That the responses of any consultation relating to recommendations 1 and 2 are considered by the Director of Place and Communities and reported back to Full Council as appropriate.**

Reasons for Recommendation(s)

Recommendation 1.

In line with Section 60, Anti-Social Behaviour, Crime and Policing Act 2014, a PSPO may not have effect for a period of more than 3 years unless extended. The existing PSPO enacted 1 October 2015, relating to a number of dog related issues, alcohol and urinating will therefore expire on 30 September 2018 unless the PSPO is extended. Extending the PSPO ensures that the Council and Police can take suitable action including Fixed Penalty Notices for these types of issues. In addition, evidence has been gathered to support appropriate variation of the PSPO, as detailed within the main body of the report.

Recommendation 2.

In line with Section 59, Anti-Social Behaviour, Crime and Policing Act 2014 there must be evidence to support the need for a PSPO including variation. The report submitted to Cabinet on 30 November 2017 identified and evidenced the issue of car cruising taking place at Junction 27 of the M1 and immediate vicinity. If evidence becomes available, particularly if there is displacement of car cruising to other areas of the district, the Director of Place and Communities will be in a position to expedite the process and carry out the necessary consultation and notification before reporting back to Full Council (as appropriate).

Alternative Options Considered

(with reasons why not adopted)

Recommendation 1.

That the Council does not approve the necessary consultation and notification to extend and vary the existing PSPO before it ceases on 30 September 2018. This would mean that officers could not continue to take action including, for instance requesting a person to hand over alcohol, issue a fixed penalty notice or provide evidence for legal action through the Court under this legislation.

This would result in an operational gap, is likely to impact upon the Council's reputation through public awareness and is likely to lead to:

- an increase in dog fouling
- dogs being allowed in children's play areas or in enclosed sports facilities on parks,
- dogs being walked off leads on highways and cemeteries,
- any number of dogs being walked at any time by one person,
- people consuming alcohol and behaving in a manner to cause a nuisance in any of the areas currently specified,
- no method to control a dog (i.e requirement to put a dog on a lead)
- urinating in a public space in any of the areas currently specified.
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Furthermore, consultation would not take place on a "direction to move on" within the 8 specified areas within the district, which is proposed to be included in the Order as a variation.

Recommendation 2.

That the Council does not gather evidence to vary the car cruising PSPO. In line with Section 59, Anti-Social Behaviour, Crime and Policing Act 2014, there must be evidence to support the need for a PSPO including variation. The Council will not be in a position to expedite the process of consultation, should sufficient evidence be gathered to support a variation to the existing PSPO for car cruising which came into effect 4 May 2018.

Existing PSPO which came into effect 1 October 2015 - Detailed Information on Recommendation 1

Public Spaces Protection Orders (PSPOs) are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life. A PSPO works by imposing conditions on the use of that area which apply to everyone. They are designed to ensure that the law-abiding majority can use and enjoy public spaces without experiencing anti-social behaviour. A PSPO remains in place for a period of 3 years unless discharged by the Local Authority.

The existing Public Spaces Protection Order came into effect on 1 October 2015 which brought together and replaced powers the Council had previously introduced under Alcohol Designated Public Place Orders, Dog Control Orders and a previous by-law (urinating) after the introduction of the Anti-social Behaviour, Crime and Policing Act 2014.

This existing Public Spaces Protection Order enables the Council to take preventive or enforcement action in public places on:

- Alcohol consumption in a designated area
- Urinating/defecating within a designated area
- Dog fouling in specified areas
- Failing to produce device or other means or removing dog faeces on demand
- Dog exclusion in specified areas
- Dogs on lead in specified areas
- Dogs on lead by direction
- Dogs specified maximum amount

These are considered in more detail below and in the attachment, which contains the specifics of the new Order and relevant maps and lists of areas. In summary, the attachment contains the following Schedules:

Schedule 1: deals with alcohol consumption, urination/defecation, orders to move on (new provision), along with maps showing the relevant areas

Schedule 2: deals with dog fouling, requirement to carry dog bags or other suitable receptacles, maximum number of dogs being exercised at one time, dogs on leads by direction. Area to be covered is the whole of Ashfield District, except for Forestry Commission land (unless permitted)

Schedule 3: deals with dog exclusion areas and maps are provided along with lists, showing the relevant areas

Schedule 4: deals with dogs needing to be on leads in specific areas designated by maps and on lists of areas

Detailed information now follows:

- **Alcohol consumption in a designated area.**

If a person who is drinking alcohol is behaving or likely to behave in a manner to cause nuisance and annoyance an officer can request the person surrender their alcohol or pour it away. Failing to do so allows an officer to take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. There are 8 designated areas

in Ashfield where this applies and are highlighted within the drafted PSPO 2015 (as extended and varied 2018) **Schedule 1**.

Proposed Variations: To incorporate additional locations as detailed and specified in the Order and Schedule 1. These are the same locations as urinating and direction to move on.

- **Urinating/defecating within a designated area.**

If a person urinates or defecates within the specified area an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. There are 8 designated areas in Ashfield where this applies and are highlighted within the drafted PSPO 2015 (as extended and varied 2018) Schedule 1.

Proposed Variations: To incorporate additional locations as detailed and specified in the Order and **Schedule 1**. These are the same additions for alcohol/urinating and direction to move on.

- **Dog fouling in specified areas.**

If a person allows a dog they are responsible for at that time to foul and walks away without picking up an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. This relates to the entire district with the exception of forestry commission land as highlighted within **Schedule 2** and accompanying map as drafted.

- **Failing to produce device or other means or removing dog faeces on demand.**

If a person does not produce a device or other means for removing dog faeces upon request an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. This relates to the entire district with the exception of forestry commission land as highlighted within **Schedule 2** and accompanying map as drafted.

- **Dogs on lead by direction.**

If a person does not comply with placing their dog on a lead at the request of an authorised officer, the officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. This relates to the entire district with the exception of forestry commission land as highlighted within **Schedule 2** and accompanying map as drafted.

- **Dogs specified maximum amount.**

No more than 6 dogs can be taken out at any one time by one person or an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. This relates to the entire district with the exception of Forestry Commission land as highlighted within **Schedule 2** and accompanying map as drafted.

- **Dog exclusion in specified areas**

Dogs are excluded from specific locations within Ashfield including enclosed children's play areas and enclosed sports facilities on parks i.e. tennis courts, bowling greens. An officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action

through the Court if the person responsible for the dog allows it to enter the exclusion areas as highlighted within **Schedule 3** of the Order and accompanying map as drafted.

Proposed Variations: Additional dog exclusion areas have been included see **schedule 3**.

- **Dogs on leads in specified areas.**

If a person does not comply with placing their dog on a lead on: each and every length of road (including pavements, footways and verges, and the pedestrianised areas and cemeteries and churchyards (detailed as per **Schedule 4** and accompanying map) an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court.

The renewal of an existing PSPO also allows for variation including adding a new prohibition. There is evidence from Council Officers and partners supporting the need for a “direction to move on” to be included into this PSPO. This enables the Council to take preventive or enforcement action as follows:

- **Direction to move on (new)–**

If a person is engaging in behaviour that is Anti-social or creating a nuisance or annoyance and fails to move on when asked to do so, an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. There are 8 designated areas in Ashfield where this applies and are highlighted within the drafted PSPO 2015 (as extended and varied 2018) **Schedule 1**.

Proposed Variations: To incorporate ‘direction to move on’ into the Order in the specified areas.

Proposed Extension: The proposed PSPO (as above) will remain in place for a period of 3 years.

Exemptions are in place which are detailed within the Order.

Evidence

The Council has the power to make a PSPO in accordance with sections 59 to 65 of the Anti Social Behaviour Crime and Policing Act 2014. The PSPO can be made if the local authority is satisfied on reasonable grounds that two conditions are met;

1. Activities being carried on, or that are likely to be carried on, in a public place within the authority’s area have a detrimental effect on the quality of life of those in the locality and;
2. The effect, or likely effect of such activities are of a persistent or continuing nature, such as to make the activities unreasonable and justifies the restrictions with the order.

From the initial evidence gathered from Nottinghamshire Police there were 882 alcohol related incidents or crimes recorded on the Police system between July 2015 and June 2017. There were also 894 ASB incidents that were flagged as alcohol related. Until the Police’s NICHE system was introduced alcohol related incidents were not recorded consistently and search of the system took place under a number of alcohol related terms i.e. drunk, vodka, wine, ale, lager, liquor etc. Therefore, the 882 incidents and 894 incidents may include a duplication so cannot be confirmed as totalling 1776. However the data confirms there was in excess of 894 alcohol related ASB incidents that took place during this period. At present this is not broken down by age or beyond June 2017. Community Protection Officers have regularly made use of the powers contained within the existing PSPO and confiscate alcohol from adults within the 8 areas, for instance during May 2018 CPOs made confiscations on two separate evenings. Evidence of all confiscations are contained with CPOs pocketbooks.

Alcohol related street drinking can result in public urination which has been highlighted as an issue by a Police Sergeant in Ashfield. Therefore, evidence of alcohol related ASB supports the requirement to incorporate a power to appropriately respond to urinating in the street.

Unlike the Police, Community Protection Officers are unable to disperse groups drinking or causing Anti-social Behaviour which has a detrimental effect on the quality of life of those in the locality. Community Protection Officers provide daily debriefs which evidences the need for this power.

Dog fouling and dog control issues continue to be a public concern and reported to the Council regularly. During 2017 251 reports of dog fouling were received, and patrolling officers regularly receive reports which are not included within the figures. Additional dog exclusion areas have been included as a result of new enclosed areas being developed and the reports of dog control issues and dog fouling near to parks and play areas.

Public Spaces Protection Order which came into effect 4 May 2018 Car Cruising – detailed information on Recommendation 2

Since the Car Cruising PSPO came into force of 4 May 2018, representation has been made to the police regarding the issue of car cruising at A608 Mansfield Road, Underwood. Additional measures have been requested and an extension to the PSPO to include the Hucknall bypass (A611) was made at Full Council on 24 April 2018. The Police have issued 3 Fixed Penalty Notices (FPN) and the Council have issued 1 FPN of £100 for people participating in the car cruising since 4 May 2018 and any displacement is being monitored. Once evidence is secured, the Director of Place and Communities will be in a position to carry out the necessary consultation for a variation to the existing PSPO before reporting back to Full Council.

The same approach will be taken for the statutory Public Consultation as follows.

1. Public Consultation.

In accordance with statutory guidelines and detailed in Section 72, Anti-Social Behaviour, Crime and Policing Act 2014 the Council must undertake public consultation. This will include: Chief of Police, appropriate community representatives, owners or occupiers of the land, the Parish Council and the County Council. It is therefore intended that

- Formal Public Notices will be placed in Chad/Dispatch
- Letters will be sent to Partners/statutory consultees
- Letters to be sent to interested parties identified i.e. dog walker clubs/groups
- Letters to be sent to all elected members at district and county level for Ashfield.
- Copies will be placed on the Council's internet site
- Awareness raised through the Council's social media
- Copies of the Orders will be made available in reception
- Awareness raised through screens in reception
- Surveys undertaken in town centres and localities across Ashfield incorporating some of the planned events.

The period of consultation will be 28 days from 15 June to 14 July 2018.

2. Cost.

There is no budget in place for the PSPO renewal, therefore cost implications are included as the budget will need establishing or will need to be contained within existing budgets. There are costs associated with purchase of signage including, officer time to install across the district in suitable locations mainly lamppost columns or parks. Some signage that was put in place in 2015 needs replacing following a review already undertaken. Costs have been established:

Publication costs £1,000-£1,200

Signage costs £8,000

Install costs £3,000

The FPN books are out of date and will need replacing. Additional 'hidden' costs are associated with the enforcement action however are included in officers operational time i.e. administration and producing evidence for legal. Legal time will be recharged back to Community Safety.

It must be clearly highlighted that the consultation is not seeking views on whether to incorporate any additional ASB or nuisance issues into this PSPO. The consultation is seeking to ensure there are no material objections or representations with the proposal before final decision on the enactment of the PSPO as it stands by Full Council.

Implications

Corporate Plan:

The PSPO will help support the Council's Place aspirations and improve the quality of life for residents affected by these issues. This will help to ensure an effective response by working with our partners to ensure people feel safe and are safe by reducing levels of crime and disorder and tackling public nuisance. As per the Corporate Plan we work with our partners to design services around the needs of individuals and places, rather than institutions; ensuring our financial resources are used in the most effective way.

Legal:

Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 9 ("the Act") provides the authority with the power to make a PSPO if satisfied on reasonable grounds that two conditions are met. Section 60 of the Act provides that a PSPO shall not have effect for longer than 3 years unless extended under this section. Section 61 provides a power to vary a PSPO by increasing or reducing the restricted area; or by altering or removing a prohibition or requirement included in the order, or adding a new one. Section 72 details the requirements for convention rights, consultation, publicity and notification. The authority must have taken into account articles 10 and 11 of the Convention, carried out the necessary consultation and publicity and notification before making, extending or varying or discharging a PSPO.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	A one-off budget approval of £12,000 may be required to meet the costs identified, if it cannot be contained within the Directorate Budget.
General Fund – Capital Programme	

Housing Revenue Account – Revenue Budget	
Housing Revenue Account – Capital Programme	

Risk:

Risk	Mitigation

Human Resources:

Equalities:

In recommending consultation of the proposed PSPO, consideration has also been had to Articles 10 and 11 of the Human Rights Act 1998 which allows the rights to expression and assembly. However, the Human Rights Act does allow restriction of these human rights for the purposes of the prevention of crime and disorder, or to protect the health or the rights and freedoms of others. The proposals in the PSPOs are intended to ensure that the anti-social behaviours caused by the activities are addressed so that public spaces can be enjoyed without fear or intimidation by the law-abiding majority of the community.

Other Implications:

The PSPO is seeking to address issues which impact on quality of life and public safety. These issues can affect both the physical and mental well-being of residents and therefore these proposals would have a significant impact on community well-being.

Communications: a press statement will be published and social media will be regularly updated on progress of both PSPOs.

Reason(s) for Urgency

(if applicable)

Reason(s) for Exemption

(if applicable)

Background Papers

(if applicable)

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