

CABINET

DATE	30/09/2020
REPORT OF	Councillor Ronald Shepherd, Portfolio Holder for Safer and Stronger Communities
RESPONSIBLE OFFICER	Joanne Hewson, Deputy Chief Executive and Director of Children's Services
SUBJECT	Review of Public Space Protection Orders
STATUS	Open
FORWARD PLAN REF NO.	CB 09/20/01

CONTRIBUTION TO OUR AIMS

The recommendations within this report contribute to the strategic aims of the Council to promote a Stronger Economy and Stronger Communities and is directly linked to the priorities within the Outcomes Framework namely People in North East Lincolnshire: -

- **Feel Safe and are Safe** – Ensuring appropriate legislation is in place to address an ongoing or developing problem and compel the perpetrator to comply, enabling local people to enjoy public open spaces.
- **Benefit from Sustainable Communities** – Ensuring we maximise our opportunities to have sustainable communities which local people can be proud of.
- **Enjoy and benefit from a strong economy** – Ensuring improvements to an area, safe environments and quality of place encourage investment, bringing with it prosperity and jobs.
- **Enjoy good health & well-being** - providing safe and attractive public spaces which local people can enjoy promoting a sense of positive health & well-being.

EXECUTIVE SUMMARY

In October 2014, following a Council motion that consideration be given to the introduction of a Borough - wide "controlled drinking zone" Public Space Protection Order (PSPO), Cabinet made a decision to introduce 7 ward based PSPOs across North East Lincolnshire. These orders were later reviewed and extended for a further three years in October 2017.

These geographically ward based PSPO's enable the consumption of alcohol to be restricted in public places in the wards of West Marsh, East Marsh, Park, Heneage, Sidney Sussex, Croft Baker and South under certain circumstances.

The Anti-social Behaviour, Crime & Policing Act 2014, requires that any PSPO must be reviewed every three years (or earlier) to enable them to be extended or varied, providing the order remains necessary in order to prevent:

- further activities identified in the order from taking place, or
- the frequency or seriousness of those activities increasing after that time.

RECOMMENDATIONS

It is recommended that Cabinet:

1. Approves the extension of a period of 3 years of the 7 ward based PSPO areas in: -
 - West Marsh
 - East Marsh
 - Park
 - Heneage
 - Sidney Sussex
 - Croft Baker
 - South.
2. Retain the current £100 penalty to be paid within 14 days of issue in the form of a fixed penalty notice (FPN) for failing to comply with a PSPO, with an amendment to remove the early discount currently available so the fine is consistent with the *Place Based* ASB PSPO's. (Introduced in 2019 in parks, open spaces and tighter defined geographical areas of the borough).
3. Continue to support the intelligence led, *Placed Based* approach to introduce PSPOs where necessary in defined geographical areas covering a range of requirements where evidence supports the introduction.
4. Authorises the Chief Operating Officer, in consultation with the Portfolio Holder for Safer and Stronger, to implement the PSPO extensions and to approve all future renewals, variations and extensions to these PSPOs, where evidence supports the application.
5. Authorises the Monitoring Officer to execute all documentation in connection with these PSPO's.

REASONS FOR DECISION

Approving the continuation of the 7 ward based PSPO areas enables the Council and Police to deal with alcohol influenced anti-social behaviour (ASB) within the areas of highest concern.

1. BACKGROUND AND ISSUES

- 1.1 **Ward-wide PSPOs** – At present, PSPOs cover seven wards in their entirety: West Marsh, East Marsh, Park, Heneage, Sidney Sussex, Croft Baker and South.
- 1.2 **PSPO Requirements** - As set out in Section 63 of the Anti-Social Behaviour, Crime & Police 2014, the scope of the PSPO states that whilst it is not an offence to consume alcohol within a “designated” area, a Police Constable or authorised person do have powers to control the consumption of alcohol within that place where they reasonably believe 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.

1.3 The constable or authorised person may require a person: -

- not to consume alcohol in breach of the Order, or anything which the constable, or authorised person, reasonably believes to be alcohol.
- to surrender anything which is, or which the constable, or authorised person, reasonably believes to be, alcohol, or a container for alcohol and may require that person to leave the area for up to 24 hours.

1.4 If someone, without a reasonable excuse, fails to comply with the constable's, or authorised persons request, then they are committing an offence and are liable to a £100 fixed penalty fine (FPN) to be paid within 14 days of issue (currently £75 if paid in full within the first 8 days), or on summary conviction receive a fine up to £1,000.

1.5 **Amendment** – The ward based alcohol related PSPO's provide an early discount of £25 if paid in full within 8 days. The 7 *Place Based* PSPO's introduced in 2019 do not offer any early discount and it is suggested that this discount is removed to provide consistency across all ASB PSPO's.

1.6 **Local Enforcement** – Alcohol Controlled PSPOs within North East Lincolnshire are enforced exclusively by Police Constables with the exception of Grimsby Town Centre where this has been extended to "Local Authority Support Officers". Whilst no Penalty Charge Notices (Fixed Penalty Fines) have been issued since the introduction of the PSPOs, feedback indicates that in cases where Police Officers have approached individuals and requested, they cease to drink, they have been compliant to Police requests and ceased their actions. The PSPO's also allow the Police or an authorised officer to compel an individual or group of individuals to leave the area and not return with 24 hours.

1.7 **Review Process** – In considering the options moving forward, the Council has applied the published Home Office guidance on *Public Place Protection Orders (PSPOs): For Local Authorities in England and Wales*. The guidance indicates that a PSPO must be reviewed by the local authority that made the order within three years to determine whether an extension is valid and reasonable, or whether the PSPO should be varied or discharged.

1.8 **Continuance** – For a PSPO to be extended in its current format, evidence must be obtained, and consultation undertaken showing the necessity and need. The Home Office guidance for a PSPO to be introduced, varied or extended is broad. The Council has to be satisfied on reasonable grounds that the activities that are being carried out, or likely to be carried out across all of the public space

- Has had or is likely to have a detrimental effect on the quality of life of those in the locality
- Is, or is likely to be, persistent or continuing in nature
- Is or is likely to be unreasonable and
- Justifies the restrictions

1.9 **Evidence** – During 2019/2020 alcohol related ASB amongst adults increased by 23.4% from 239 incidents in 2018/19 to 296 incidents in 2019/20. The seven PSPO areas accounted for 81.4% of all alcohol related ASB in the borough. The seven wards saw incidents increase from 194 in 2018/19 to 241 in 2019/20 a 24.2% rise.

1.10 With the recent restrictions imposed due to Covid 19 and the unlikelihood that pubs and restaurants will be able to operate as they previously did for some considerable time, it is expected that alcohol related ASB will rise in our public open spaces. This is evidenced with recent gatherings in the parks and beach area with substantial amounts of alcohol waste being left behind.

1.11 **STAKEHOLDER CONSULTATION**

1.12 Following best practice, the Council designated a consultation period which ran from 1st June to 16th August 2020 and received the following responses.

1.13 **Humberside Police Response** – Recorded instances of Alcohol ASB increased by 23.4% during 2019/2020 when compared to the previous year whereas recorded ASB in general reduced by 6% in comparison. Feedback confirmed that at certain times the Police are responding to alcohol related ASB as a result of street drinking in the 7 PSPO areas. Evidence indicates that those approached have been compliant without the need to issue fines. Where non-compliance is encountered national legislation is more likely to be used to effect an arrest. Anecdotal evidence indicates that there is likely to be an increase in this kind of behaviour should the order be discharged. Humberside Police's commitment to proportionately enforce the PSPO areas remains in place with resources deployed based on threat risk and harm. Days of action are planned over the forthcoming year which will allow an increased presence in areas of concern and for targeted operational activity when and where appropriate.

1.14 The Divisional Commander for North East Lincolnshire Chief Superintendent Wildbore supports the retention of the existing PSPOs. The current PSPOs assists the Police to deal with alcohol influenced ASB within the areas of highest demand.

1.15 **Office of the Police and Crime Commissioner** – Feedback from the Office of the Police & Crime Commissioner indicates support for the retention of the PSPOs in their current format and the continuance of a *Placed Based* approach in specific locations utilising wider conditions where the need arises together with the capacity to enforce allows.

1.16 **Member of Parliament** - The MP for Grimsby Lia Nici supported the retention of the Orders.

- 1.17 **Ward Councillors** – Elected members in the designated wards were invited to offer their views on the future of the PSPOs. In total 7 responses were received from ward councillors with 6 in support of retaining and one supporting the discharging of the PSPO's.
- 1.18 **Licensed premises** – Licensees across North East Lincolnshire were unable to be consulted with due to Covid 19. The previous consultation with them in 2017 showed there was broad support for the continuation with a request for more effective and consistent enforcement.
- 1.19 **Significant others** – A range of other stakeholders were also contacted directly and offered the opportunity to take part in the consultation. Stakeholders included the Community Safety Partnership, the Health & Well Being Board, the Clinical Commissioning Group, Voluntary Sector, Housing Associations and Community and Neighbourhood Watch Groups and relevant Council departments. Of responses received, all were in support of retaining the PSPO in the current format. Concerns reflected previous comments around effectively dealing with low level alcohol related offending and anti-social behaviour. With Public Health suggesting that health leaflets should be handed out at the time of engagement to encourage people to seek health where appropriate.
- 1.20 **Public consultation** – A public consultation was undertaken between 6th July and the 16th August through social media and via the NELC website, “*have your say*” section. At the time of submission 467 people had responded to the PSPO section of the survey with 26.5% believing anti-social drinking had reduced as a result of the PSPOs and 39% of respondents not sure. People in favour of retaining the PSPO's in the seven area ranged from 75% to 82% with only 5% to 6% of respondents believing that the PSPO's should be removed. The respondents covered all age groups across the wards.
- 1.21 **Conclusion** – It is evident from the wide range of stakeholder and community consultation that there is broad support for the continuation of the 7 ward based PSPOs across North East Lincolnshire. Continuing with the current PSPOs enables the Council and Police to deal with alcohol influenced ASB within the areas of highest concern.
- 1.22 **Human Rights** – The extension of the PSPO's is compliant with Article 10 and 11 of the Human Rights Act 1998. Article 10 and 11 relates to the “Freedom of Expression” and the freedom to be part of a “Lawful Assembly and Lawful Association”. Local Authorities are allowed to put conditions in place under both articles to prevent: -
- crime and disorder,
 - protect health and morals,
 - protect individual rights and reputations.

The PSPO only becomes enforceable when there is the likelihood of disorder taking place. They assist in preventing crime and disorder, helps to reduce the risk to health through excessive alcohol consumption and protects residents and visitors to the area from ASB.

- 1.23 An Equality and Diversity Impact Assessment has been carried out on the review.

2. RISKS AND OPPORTUNITIES

- 2.1 The main risk associated with continuing or introducing new PSPOs is the management of expectations and the physical ability to enforce the conditions effectively. Budget pressures still remain and the capacity to enforce will remain challenging due to other competing demands which need to be managed carefully.
- 2.2 The global pandemic of Covid 19 has seen restrictions being imposed. The easing of restrictions has seen a greater use of public open spaces to socialise with the consumption of alcohol taking place. To discharge the PSPOs will remove the ability of the Police to compel an individual or group to leave a specific area.
- 2.3 Evidence indicates that ASB linked to alcohol consumption has risen over the last year and is likely to rise again during 2020/2021. The discharging of the order may see this rise further.

3. OTHER OPTIONS CONSIDERED

- 3.1 **The creation of new PSPO areas to correspond with existing Cumulative Impact Zone (CIZ) areas** – This option was considered which would significantly reduce the geographical coverage of PSPOs across the borough with a focus on the high demand areas which have a larger concentration of licensed premises. This would incur costs of removing existing signage across the existing PSPO areas but could allow for more targeted enforcement around alcohol.
- 3.2 Based on the statistical evidence in relation to alcohol related ASB across the 7 identified wards and the wider consultation results, in addition to the potential for wider displacement of individuals outside of a smaller geographical PSPO area, this option was discounted.
- 3.3 **Discharging existing PSPOs** – Whilst this option was considered, it was felt prudent to continue with existing ward based PSPO areas. Feedback shows that when approached individuals have been compliant and stopped drinking and the Police would lose the option to compel an individual to leave the area for 24 hours. To discharge the order is likely to see an increase in alcohol related ASB in our busiest wards in particular with the Covid 19 restrictions being in place and more people utilising public open space to meet and socialise with family and friends.

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

Ongoing communications are essential to ensure that the public understand the nature of the PSPOs and their conditions. In addition, highlighting successes around the preventative nature of their use is also paramount. This in turn will help to both increase confidence and manage expectations around enforcement so as communities are realistic around the response and understand it in the context of wider demands placed on the Police which are assessed based on threat, risk and harm.

5. FINANCIAL CONSIDERATIONS

- 5.1 Any revenue generated through Fixed Penalty Fines will be retained by the Council. Certain legal costs are likely to be incurred where an individual fails to pay a Fixed Penalty fine and legal action is taken.
- 5.2 Moving forward, there will be costs associated with the removal of signage in areas where any PSPO is discharged.

6. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no environmental implications.

7. CONSULTATION WITH SCRUTINY

- 7.1 A paper covering the review of the PSPO's was presented to the Communities Scrutiny Panel on 23rd July. Scrutiny noted the report and welcomed opportunities to record positive interventions and publicise PSPOs to raise understanding and highlight successes.

8. FINANCIAL IMPLICATIONS

- 8.1 As the recommendation does not suggest any major changes to current PSPO arrangements there are no significant financial implications resulting from this report.

9. LEGAL IMPLICATIONS

- 9.1 Pursuant to the Anti-Social Behaviour, Crime and Policing Act 2014, the Local Authority, in deciding whether to extend the period for which the PSPO has effect, and if so for how long, must be satisfied on reasonable grounds that doing so is necessary to prevent the occurrence or recurrence of the activities identified in the order or an increase in the frequency or seriousness of those activities.
- 9.2 The Local Authority must take into account Articles 10 & 11 of the Convention and carry out the necessary consultation, publicity and notification.
- 9.3 An extension may not be for more than 3 years, but a PSPO can be extended more than once.
- 9.4 The report highlights sufficient evidence to conclude the statutory conditions for extending the PSPO have been satisfied and that this action will be a justified, proportionate and reasonable response.

10. HUMAN RESOURCES IMPLICATIONS

- 10.1 There are no HR implications contained within this report

11. WARD IMPLICATIONS

- 11.1 Applies to East Marsh, West Marsh, South, Park, Heneage, Sidney Sussex, and Croft Baker

12. BACKGROUND PAPERS

12.1 Cabinet report 29th October 2014 - Council Motion for a Borough Wide "Controlled Drinking Zone PSPO.

12.2 Cabinet Report 25th October 2017 – Review of Public Space Protection Orders

13. CONTACT OFFICER(S)

13.1 Spencer Hunt, Assistant Director, Safer, North East Lincolnshire

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