

# Public Spaces Protection Orders

Joint Report of the Community, Leisure and Tourism Portfolio Holder and the Housing and Environmental Health Portfolio Holder

## Recommended:

1. **That officers be authorised to publicise the proposed extension of the Public Spaces Protection Orders (PSPOs) and carry out consultation and notification as required by the Anti-Social Behaviour Crime and Policing Act 2014.**
2. **That the Head of Legal and Democratic Services in consultation with the Community, Leisure and Tourism Portfolio Holder and the Housing and Environmental Health Portfolio Holder be authorised to consider the outcome of the consultations and to either approve the extension of the existing PSPOs, or alternatively the making of PSPOs with such amendments as are deemed necessary, for a period of up to three years.**

### SUMMARY:

- The Council's existing Public Spaces Protection Orders relating to alcohol consumption, anti-social behaviour and dog-related issues will expire on 15 June 2023 unless extended.
- It is therefore necessary to either extend those orders or make new orders in their place. The recommended option is to extend the existing orders unamended.
- This report sets out the terms of the existing orders, seeks approval for consultation on the proposed extension of those orders and the making of either extended or amended orders.

## 1 Introduction and background

- 1.1 The Anti-social Behaviour, Crime and Policing Act 2014 came into effect on 20 October 2014 and gave Councils power to create 'Public Spaces Protection Orders' ('PSPOs').
- 1.2 PSPOs replaced the former Gating Orders, Designated Public Place Orders (DPPOs) and Dog Control Orders.
- 1.3 A PSPO may be made to deal with a particular nuisance or problem in a particular area that is detrimental to the quality of life of those in the locality.

- 1.4 Two PSPOs are currently in force and these came into force on 16 June 2020 following a Cabinet resolution on 11 March 2020 (minute 358) and a subsequent consultation process. The first covers certain types of anti-social behaviour within two defined areas of the borough and the second covers dog control issues, most notably dog fouling.
- 1.5 These two PSPOs will expire on 15 June 2023 and so, if the Council wishes to have the continued protection of orders, the orders must therefore be extended before they expire or new orders made in their place. A project team consisting of officers from the Community and Leisure, Housing and Environmental Health, and Legal and Democratic Services have reviewed the existing orders and complaints, evidence of nuisance and feedback from partners and stakeholders and have concluded that the existing orders annexed to this report should be extended. Whether or not this extension would be with or without modification would be informed by consideration of the outcome of consultation.
- 1.6 PSPOs must be evidence-based. They must be made only in response to existing nuisance or where there is real evidence that nuisance is likely to occur. Orders cannot be properly made on a pre-emptive basis. In coming to the recommendations for extending the existing orders, the project team has considered and had regard to evidence obtained from Council Services, the police, members of the public and the business community. A PSPO must identify the area to which it relates and can make positive requirements or prohibitions within that area.
- 1.7 In order to properly extend an existing PSPO, an Authority must be satisfied on reasonable grounds that doing so is necessary to prevent:
- (a) the occurrence or recurrence after that time of the activities identified in the order; or
  - (b) an increase in the frequency or seriousness of those activities after that time.
- Officers are satisfied that these conditions are met.
- 1.8 In order to make a completely new PSPO, an Authority must be satisfied that two conditions are met. Firstly, that:
- (a) activities carried on in a public place within the Authority's area have had a detrimental effect on the quality of life of those in the locality; or
  - (b) it is likely that activities will be carried on in a public place within that area and that they will have that effect.
- Secondly, that the effect of the activities:
- (c) is or is likely to be of a persistent or continuing nature;
  - (d) is or is likely to be such as to make the activities unreasonable; and
  - (e) justifies the restrictions imposed.

1.9 In deciding whether to extend a PSPO, and how long it should be extended for, an Authority must carry out certain consultation, notification and publicity. The necessary statutory consultation includes consultation of:

- (a) the Chief of Police and the local policing body for the area in question;
- (b) whatever community groups the Council thinks it appropriate to consult; and
- (c) the owner or occupier of land within the restricted area, if, or to the extent that it is reasonably practicable to consult with the owner.

1.10 The necessary notification includes parish or community Councils within the area of the proposed orders and the County Council.

#### 1.11 Existing orders

Copies of the existing orders proposed for extension are attached as Annexes 1 and 2.

#### 1.12 Terms of the orders

The required consultation will be carried out. Having considered the outcome of that consultation it is proposed that the two PSPOs will be extended for a period of three years (the maximum period allowed) with or without such modification or addition as the consultation responses may properly inform. A brief description of each of the two orders is given below.

#### 1.13 PSPO covering alcohol and anti-social behaviour

This order, reproduced in Annex 1 to this report deals with the following issues in the following ways:

- (i) Alcohol – It is an offence for a person to consume alcohol where required not to by an authorised person and to surrender alcohol when required in the geographical area defined by way of a red line on the plans provided in Annex 1 (Plan A - Northern PSPO Area 2020) and (Plan B - Southern PSPO Area 2020).
- (ii) Harassment – This prohibition applies to the area of central Andover shaded pink (Plan C – Andover Town Centre PSPO). The extent of this area includes the Bus Station, the Chantry Centre, the High Street and Pocket Park and an area extending to and including the underpass to the West of the old Magistrates Court building. It is proposed that the following are prohibited within the defined area:
  - a. harassment, intimidation of residents, businesses or members of the public;
  - b. acting or inciting others to act in an anti-social manner i.e. a manner likely to cause harassment, alarm or distress to another person;

- c. urination or defecation in an open public place.

An authorised person may request that an individual or group disperse where they reasonably suspect that any person within that group is causing or likely to cause nuisance, alarm, harassment or distress to any other person and that having been required so to leave or disperse such persons shall be prohibited from remaining in the area.

#### 1.14 PSPO covering dog control issues

This order, reproduced in Annex 2 to this report, applies to the whole of the Test Valley Borough Council area and includes the following provisions:

- (i) A requirement (subject to limited exceptions) on a person in control of a dog to remove that dog's mess from the land after fouling.
- (ii) That an authorised person may require a person in control of a dog to put that dog on a lead. Such a direction may be given if it is reasonably necessary to prevent a nuisance or behaviour by the dog that is likely to cause annoyance or disturbance to any other person, animal or bird.
- (iii) A prohibition on taking a dog into any enclosed children's play area or enclosed sports facility.

1.15 Breach of a PSPO without reasonable excuse is a criminal offence and can be dealt with by way of a fixed-penalty notice ('FPN') or by prosecution.

1.16 Orders can last for a maximum of three years after which they will either need to be re-made or can be extended, if need be more than once, for a period not exceeding a further three years. Orders may be varied at any time where supported by evidence and subject to following the prescribed process.

1.17 It is important to note that, subject to the required consultation and publication, orders may be varied at any time if supported by appropriate evidence.

## **2 Corporate Objectives and Priorities**

2.1 Maximising the Council's ability to deal with anti-social behaviour or behaviour which has a detrimental effect on the quality of life of those in the locality cuts right across the Council's priorities of enabling our town centres to adapt and be attractive, vibrant and prosperous places, our communities to be empowered, connected and to build upon their strengths, enabling our people to be able to live well and fulfil their aspirations and last but not least, looking after our local environment for current and future generations.

## **3 Consultations**

3.1 The recommendation includes commencement of consultation which will comply with the requirements of the Anti-social Behaviour, Crime and Policing Act 2014. All representations received through the consultation process will be considered prior to finalising the ongoing PSPOs.

- 3.2 With regard to the alcohol and anti-social behaviour PSPO, the Police have already indicated that they support the renewal of the PSPO as it currently stands, on the basis that the Police perceive the PSPO in force currently to have been helpful in support of their policing role and to have had a positive impact overall, contributing to a reduction in street drinking.

## **4 Options**

- 4.1 There are three options:
- 4.2 Option 1. Do nothing. In which case, the existing orders would fall away on 15 June 2023 and the Borough would be without the protection of Public Spaces Protection Orders.
- 4.3 Option 2. To put in place measures to extend the existing Public Spaces Protection Orders – with or without such amendment as the consultation may define - prior to their expiry, thereby providing seamless protection.
- 4.4 Option 3. Make new, revised, orders to replace the existing Public Spaces Protection Orders. This would require fresh consideration of the necessary tests to introduce a new order, because different tests to those for extending an existing order would apply.

## **5 Option Appraisal**

- 5.1 Option 1 is not recommended. To allow the existing orders to fall away and not to take the opportunity to update the Council's Public Space Protection Orders would not be in the Borough's best interests. Option 2 has been carefully considered in light of the evidence available and is the recommended option. Option 3 overlaps to some extent with Option 2 as Option 2 contemplates the inclusion of such amendments as consideration of the consultation responses may define. However, evidence points to the existing orders being effective and so Option 2 (i.e. extension of the existing orders with or without amendments) is preferred to Option 3 which contemplates entirely new orders.

## **6 Risk Management**

- 6.1 An evaluation of the risks associated with the matters in this report has previously been reported to Members in the Cabinet report on 11 March 2020 (minute 358).

## **7 Resource Implications**

- 7.1 There are no additional resource implications.

## **8 Legal Implications**

- 8.1 There are no legal implications of introducing new PSPOs save that the Council will have the benefit of up to date orders.

## 9 Equality Issues

- 9.1 An Equality Impact Assessment for each order has been carried out and identifies no potential for discrimination or adverse impact on those with protected characteristics. The Assessments will be updated in the light of consultation responses received.

## 10 Other Issues

- 10.1 None are identified.

## 11 Conclusion and reasons for recommendation

- 11.1 It is recommended that the recommendations set out at the start of this report are approved to ensure that the Council can continue to make effective use of the powers under the Anti-Social Behaviour Crime and Policing Act 2014.

<u>Background Papers (Local Government Act 1972 Section 100D)</u> None			
<u>Confidentiality</u> It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	2	File Ref:	N/A
(Portfolios: Community, Leisure and Tourism and Housing and Environmental Health) Councillors D Drew and T Tasker			
Officer:	David Tasker / Mark Lee	Ext:	8801 / 8035
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