

Public Spaces Protection Orders

Report of the Corporate Portfolio Holder

Recommended:

- 1. That the terms of the proposed Public Spaces Protection Orders annexed to this report are approved.**
- 2. That officers are authorised to publicise the proposed Public Spaces Protection Orders and carry out consultation and notification as required by the Anti-Social Behaviour Crime and Policing Act 2014.**
- 3. That the Corporate Portfolio Holder in consultation with the Head of Legal and Democratic Services is authorised to consider the outcome of the consultation and to approve the making of the PSPOs with such amendments as are deemed necessary.**

SUMMARY:

- The Council's existing Public Spaces Protection Orders relating to alcohol consumption and dog-related issues will expire on 20th October 2020.
- It is therefore necessary to make new orders. This report sets out the proposed terms of those new orders, seeks approval of the orders and the process for consultation on and making of those new orders.

1 Introduction and background

- 1.1 The Antisocial Behaviour, Crime and Policing Act 2014 came into effect on 20th October 2014 and gave Councils power to create 'Public Spaces Protection Orders' ('PSPOs').
- 1.2 PSPOs replace 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 Designated Public Place, Gating and Dog Control Orders which remained in force on the third anniversary of the commencement of the 2014 Act on 20th October 2017 automatically transitioned into Public Space Protection Orders without any further action by the Council. These 'deemed' PSPOs are treated as if they were PSPOs adopted under the 2014 Act and remain in force for three years (until the 20th October 2020) unless varied or discharged in the meanwhile.

- 1.5 If the Council wishes to have the continued protection of orders, new orders must therefore be made by that date. A project team consisting of officers from the Community and Leisure, Housing and Environmental Health, Environmental and Legal Services have considered the scope of the existing orders and complaints and evidence of nuisance, culminating in the draft orders annexed to this report.
- 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 contained in the draft 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 issue a 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:
- (a) is or is likely to be of a persistent or continuing nature;
 - (b) is or is likely to be such as to make the activities unreasonable; and
 - (c) justifies the restrictions imposed.
- 1.8 In deciding whether to make, vary or discharge a PSPO an Authority must carry out certain consultation, notification and publicity. The necessary statutory consultation includes consultation of:
- (a) the Chief of Police or 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.
- 1.9 The necessary notification includes parish or community Councils within the area of the proposed orders and the County Council.
- 1.10 Existing orders

Test Valley Borough Council has three orders currently in force which transitioned to PSPOs in October 2017. These are:

- (a) Public Spaces Protection Order dated 25th July 2003 which came into effect on 4th August 2003 (formerly a Designated Public Place Order).
- (b) Public Spaces Protection Order dated 1st July 2008 which came into effect on 1st August 2008 (formerly a Designated Public Places Order).
- (c) Public Spaces Protection Order dated 24th October 2006 which came into effect on 14th November 2006 (formerly a Dog Control Order).

Copies of these orders are attached as Annexes 1, 2 and 3 respectively.

1.11 Looking at the current orders in more detail:

- (a) The PSPO dated 25th July 2003 (effective 4th August 2003) relates to various roads, car parks, footpaths and other areas in Andover. It permits an authorised person where they believe that a person has been drinking or intends to drink intoxicating liquor in a public place to:
 - a. require the person not to consume alcohol:
 - b. surrender any alcohol or container for alcohol: and
 - c. gives authority for disposal of anything so surrendered.
- (b) The PSPO dated 1st July 2008 which came into effect on 1st August 2008 effectively brought further locations in the Borough within the scope of the 2003 order to the extent that they weren't already; namely the following (pre-Community Governance Review) Wards Romsey (Abbey), Romsey (Cupernham), Romsey (Tadburn), Romsey Extra, North Baddesley, Valley Park, Chilworth Nursling and Rownhams, Andover (Alamein), Andover (Harroway), Andover (Millway), Andover (Winton) and Andover (St Mary's).
- (c) The PSPO dated 24th October 2006 which came into effect on 14th November 2006 made it a criminal offence for any person in control of a dog to fail without reasonable cause to pick up after the dog had fouled. This order applies to all land (with limited exceptions) within the Test Valley Borough Council area which is open to the air and to which the public has access.

1.12 Proposed terms of new orders

It is proposed that two new PSPOs are made, one dealing with anti-social behaviour (including alcohol related issues) and one dealing with dog control issues. The opportunity has been taken to reconsider the terms of the orders and updated provisions are proposed where supported by evidence.

A copy of the proposed PSPO covering anti-social behaviour (including alcohol issues) is attached at Annex 4 to this report and the proposed order covering dog-related issues at Annex 5.

1.13 Proposed PSPO covering alcohol and anti-social behaviour

It is proposed that the new order deals with the following issues in the following ways:

- (i) Alcohol – that the terms of the existing order are retained. Namely that it will be an offence for a person to consume alcohol where required not to by an authorised person and to surrender alcohol when required. It is proposed that the order remains applicable to the geographical area covered by the ‘old’ named wards but to avoid confusion to make reference to that area by way of a red line on plans rather by reference to Ward names.
- (ii) Harassment – It is proposed that this prohibition applies to the area of central Andover shaded pink on Plan C to the proposed order. 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.

It is also proposed that 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 Proposed PSPO covering dog control issues.

It is proposed that the new order applies to the whole of the Test Valley Borough Council area (as currently) 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 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.

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 fulfill 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 Antisocial Behaviour, Crime and Policing Act 2014. All representations received through the consultation process will be considered when making the final PSPOs.

4 Options

- 4.1 There are two options:
- 4.2 Option 1. Do nothing. In which case, the existing orders would fall away on 20th October 2020 and the Borough would be without the protection of Public Spaces Protection Orders.
- 4.3 Option 2. To put in place measures to introduce new, updated Public Spaces Protection Orders which would come into force prior to the expiry of the old orders providing a seamless transition to the new orders.

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 presents an opportunity to consult on and introduce up to date and evidence-based Orders, providing the Borough with the maximum protection afforded by the legislation and is therefore the recommended option.

6 Risk Management

- 6.1 An evaluation of the risks indicate that the existing controls in place mean that no significant risks have been identified at this time.

7 Resource Implications

- 7.1 There are no resource implications other than officer time and where necessary updating signage which can be accommodated within existing budgets where necessary.

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 has been carried out and identifies no potential for discrimination or adverse impact on those with protected characteristics. The Assessment 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 make effective use of the powers under the Anti-Social Behaviour Crime and Policing Act 2014.

Background Papers (Local Government Act 1972 Section 100D)

Public Spaces Protection Order dated 25th July 2003, Public Spaces Protection Order dated 1st July 2008, Public Spaces Protection Order dated 24th October 2006 and the Draft Orders annexed to this report.

Confidentiality

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:

5

File Ref:

N/A

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Report to:

Cabinet

Date:

11 March 2020