

BRECKLAND DISTRICT COUNCIL

Report of: Paul Claussen, Executive Member Place and Rob Walker, Executive Director Place

To: Cabinet - 11 July 2017
Full Council – 27 July 2017

(Author: Steve James, Community & Environmental Services Manager)

Subject: Public Spaces Protection Order - Thetford

Purpose: To review the existing Designated Public Place Order (DPPO) in Thetford with regards to creating a Public Spaces Protection Order (PSPO)

Recommendation(s):

- 1) That Members note the results of the consultation exercise (Appendix A)
- 2) That Members approve Option 2 and agree to proceed with the implementation of the PSPO for the restricted area (Appendix B) prohibiting the following activities:
 - a) Consumption of alcohol in a public place
 - b) Urination and defecation in a public place
 - c) Use of a bicycle, skateboard or scooter in a pedestrianised zone
- 3) That Members approve Option 3 and agree to delegate authority to the Executive Director Place in consultation with the Executive Member Place, to carry out variations to any implemented PSPOs

1.0 BACKGROUND

- 1.1 The Anti-Social Behaviour, Crime and Policing Act 2014 introduced new powers to tackle anti-social behaviour, one of which being the power to implement Public Spaces Protection Orders. Only a local authority can make a PSPO in respect of a public place within its area.
- 1.2 These orders are designed to stop anti-social behaviour being committed in a public place. It can be used to deal with existing problems and problems that are likely to arise in the future.
- 1.3 The Council may make an Order if they are satisfied, on reasonable grounds, that the following two conditions are met:

First condition

- Activities carried out in a public place in the local authority's area have a detrimental effect on the quality of life of those in the locality or
- It is likely that the activities will be carried out in a public place within the area that will have such an effect

Second condition

The effect or likely effect of the activities:

- Is, or is likely to be, of a persistent or continuing nature
- Is, or is likely to be, such as to make the activities unreasonable and

- Justifies the restrictions imposed

1.4 The Order identifies the public spaces affected as the 'restricted area' and can:

- Prohibit specific things from being done in the restricted area
- Require specific things to be done by persons carrying out specific activities in the area
- Or both

The only prohibitions or requirements that can be imposed are ones that are reasonable to impose in order to:

- Prevent the detrimental effect from continuing, occurring or recurring
- Reduce the detrimental effect or reduce the risk of its continuance, occurrence, and recurrence.

1.5 The Act states that 'necessary consultation' must be undertaken before a Public Spaces Protection Order is introduced. The Act defines this as consulting with:

- The Chief of Police for the restricted area
- The Police and Crime Commissioner
- Whatever community representatives the local authority thinks is appropriate
- As far as is practicable, the owner or occupier of the land

1.6 On 21st March 2017 Cabinet gave approval for necessary consultation on the introduction of PSPOs for the five market towns to commence, with the first round of consultation being in regard to Thetford Town Centre.

1.7 CONSULTATION

1.8 Consultation commenced on 21st April 2017 and ended on 12th May 2017. An online consultation form was created as well as paper copies of the form being available from a number of public buildings across the town. In total 450 responses were received. The summary of the consultation is shown in Appendix A.

1.9 Three activities were proposed to be prohibited based on feedback from Norfolk Constabulary and Thetford Town Council. These activities were:

Consumption of alcohol in a public place

1.10 In regards to the consultation results, 95% of respondents had seen people persistently consuming alcohol in a public place; 65% believed this issue had got worse over the last 12 months; 73% stated that they had been affected by this issue and 95% agreed that the Council should prohibit this activity.

Urination and defecation in a public place

1.11 67% of respondents stated they had seen evidence of people persistently urinating and defecating in a public place; 47% believed it had got worse over the last 12 months; 61% stated that they had been affected by this issue and 95% agreed that the Council should prohibit this activity.

Use of a bicycle, skateboard or scooter in a pedestrianised zone

- 1.12 84% of respondents stated that they had seen people persistently using a bicycle, skateboard or scooter in a pedestrianised zone; 48% believed this issue had got worse over the last 12 months; 64% stated they had been affected by this issue and 86% agreed that the Council should prohibit this activity.
- 1.13 The survey provided the option for people to suggest any changes to the activities that should be prohibited. 45 people chose to respond to this question with 'spitting' being the common response. This was also expressed as an area of concern by the Safer Thetford Action Group and will be monitored moving forwards. PSPOs are more flexible than DPPOs with the ability to make variations to the order at any point during their three year term. Should this issue prove to meet the test to be added to an existing PSPO the legislation gives the Council power to do this.
- 1.14 In order to ensure the benefit of this more responsive, flexible approach to changing community issues, authority to vary any implemented order could be delegated to the Executive Director Place in consultation with the Executive Member Place therefore avoiding the need to go through a full committee process.
- 1.15 Consultation was also undertaken on the proposed area that the PSPO would cover, known as the restricted area. A proposal was put forwards which had been developed by Norfolk Constabulary in conjunction with the Safer Thetford Action Group (Appendix C). 92% of respondents agreed with the proposed area of the PSPO.
- 1.16 Should the Council approve the implementation of the PSPO, the draft order will need to be published in accordance with the regulations produced by the Secretary of State.

2.0 **OPTIONS**

- 2.1 Option 1. Do nothing. This will mean that the existing Designated Public Place Order (DPPO) will remain in place until 20 October 2017. At this point it will automatically become a Public Spaces Protection Order (to address alcohol in public) without the need for any additional action on the part of the Council.
- 2.2 Option 2. Proceed with the implementation of the PSPO for the restricted area (Appendix B) prohibiting the following activities:
 - a) Consumption of alcohol in a public place
 - b) Urination and defecation in a public place
 - c) Use of a bicycle, skateboard or scooter in a pedestrianised zone
- 2.3 Option 3: Delegate authority to the Executive Director Place in consultation with the Executive Member Place, to adapt existing PSPOs.

3.0 **REASONS FOR RECOMMENDATION(S)**

- 3.1 The Council has a statutory duty to work in partnership with other agencies to reduce crime and anti-social behaviour. The Anti-Social Behaviour, Crime and Policing Act 2014 introduced new powers to tackle anti-social behaviour, one of which being the power to implement Public Spaces Protection Orders.

3.2 The consultation exercise has evidenced significant support from all stakeholders for the proposed PSPO to be implemented

4.0 **EXPECTED BENEFITS**

4.1 By going to consultation the Council has ascertained the type and frequency of anti-social behaviour that members of the public are experiencing in Thetford Town Centre.

4.2 Responding appropriately to the results of the consultation and implementing an appropriate PSPO demonstrates the Council's commitment to addressing the concerns around reducing and preventing crime and protecting the community and environment of the town centre.

4.3 In order to evaluate the impact the PSPO has if implemented, it is proposed that a monitoring group of key stakeholders led by Breckland Council be created. This group would meet at appropriate intervals to scrutinise the data associated with the Order, likely to include the number of reported incidents of breaches, the location of reported incidents and the action taken by authorised agencies. This would help support any future proposed variations to the order as well as assessing its effectiveness.

5.0 **IMPLICATIONS**

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

5.1 **Carbon Footprint / Environmental Issues**

5.1.1 The introduction of PSPO's will help protect the natural environment which currently experiences incidents of anti-social behaviour.

5.2 **Constitution & Legal**

5.2.1 The first section of this report has set out the legal framework for creating PSPOs as set out in Anti-Social Behaviour, Crime and Policing Act 2014 which has been adhered to.

5.3 **Corporate Priorities**

5.3.1 The recommendations in this report contribute to the following Council Priorities and Objectives:

- Supporting Breckland to develop and thrive
- Work together with partners and local communities to make public spaces cleaner, greener and safer
- Work with our partners to reduce and prevent crime and anti-social behaviour and protect the community and environment

5.4 **Crime and Disorder**

5.4.1 Anti-social behaviour covers a variety of unacceptable activities that affect community life and the life of individuals and families. The introduction of PSPO's across our market towns has the potential to deliver significant positive community impact if enforced to their full potential.

5.5 **Equality and Diversity / Human Rights**

5.5.1 The two issues that must be addressed for every proposed restriction/variation in a PSPO are whether the statutory criteria are met and whether those variations are proportionate. It is a question of balancing rights and freedoms of individuals against the needs of the wider community.

5.5.2 The formal consultation has evidenced the requirement to prohibit activities that have a detrimental impact on the quality of life of the community and will be applied to all. Consideration has been given to what activities are prohibited, where the restrictions will apply and what times they will apply in order to ensure that the human rights of individuals are not interfered with.

5.6 **Financial**

5.6.1 There are no material financial implications associated with this report. The London Borough of Lambeth published costs of the statutory consultation and subsequent signage for the introduction of a borough wide PSPO at £5000. It is unlikely that costs would exceed this amount in Thetford as the order would be restricted to a smaller location and the consultation was undertaken by Council Officers at minimal additional cost.

5.7 **Health & Wellbeing**

5.7.1 There are no direct implications other than potentially reducing the opportunity for alcohol misuse and the possibility of signposting people to the appropriate support agencies and services.

5.8 **Reputation**

5.8.1 To improve perceptions of Community Safety, the Council needs to address community concerns. Not taking any action at all could risk worsening perception of community safety.

5.9 **Risk Management**

5.9.1 Key risks have been identified as follows:

1. Public expectations are raised unrealistically and a subsequent order cannot be enforced to the anticipated extent. To mitigate this, the Council will continue to work in partnership to ensure available resources are used in the most effective way to tackle the issues identified.
2. The potential of stigmatising locations covered by a PSPO is a concern as this may be counterproductive in trying to stimulate economic growth into the town centre. To mitigate this carefully considered communications are necessary to promote the positive impact of any order.
3. The introduction of a geographically defined PSPO may simply displace problems currently being experienced beyond the area of coverage. To mitigate this comprehensive discussions have taken place with Norfolk Constabulary to ensure that the geographical area being considered covers an adequate area to address the key manifestations of antisocial behaviour.
4. The criminalisation of non-criminal behaviour where the terms of a PSPO are breached. There is a risk that certain individuals may breach an order regularly and be drawn into the criminal justice system. To mitigate this it is intended to ensure that where specific issues are identified, individuals will be signposted to assistance and support to address the root causes of behaviour and not simply be subject to ongoing enforcement action. It is also worth noting that discharging of a breach via a Fixed Penalty avoids prosecution and is not a recordable offence.

- 5.10 **Safeguarding**
5.10.1 Those individuals who may be in breach of a PSPO may be ‘vulnerable’ with their own needs. Additional support as well as enforcement may be needed on some occasions.
- 5.11 **Staffing**
5.11.1 The recent Service Review of the Communities and Environmental Services Teams created two Enforcement Officer roles. These will assist in the enforcement of certain elements of the PSPO.
- 5.11.2 PSPOs can be enforced by Police Officers, authorised Police Community Support Officers (PCSOs), Council Officers and other groups designated by the Council. A discussion has taken place with Thetford Town Council in terms of adopting a partnership approach to enforcement, and it is envisaged that similar discussion will also take place with other Town Councils.
- 5.11.3 It has been acknowledged that whilst the Council have the legal ability to enforce against street drinkers, it is accepted that enforcement against this group carries a heightened risk to personal safety. Norfolk Constabulary will accept responsibility for enforcement with support by the Council if required. A breach of the Order is a criminal offence and can be dealt with through the issuing of a Fixed Penalty Notice of up to £100, or a level 3 fine of up to £1000 on prosecution.
- 5.12 **Stakeholders / Consultation / Timescales**
5.12.1 A comprehensive consultation exercise has been undertaken in line with the statutory requirements.
- 6.0 **WARDS/COMMUNITIES AFFECTED**
6.1 All Thetford Wards are affected.
- 7.0 **ACRONYMS**
7.1 PSPO – Public Spaces Protection Order
7.2 DPPO – Designated Public Place Order

Background papers:-

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Key Decision: Yes

Exempt Decision: NO

This report refers to a Mandatory Service

Appendices attached to this report:

Appendix A PSPO Consultation Summary
Appendix B Restricted Area