

REPORT NO. 4

REPORT TO THE EXECUTIVE MEETING OF 11th July 2016

Meeting: Executive

Date: 11th July 2016

Subject: Public Spaces Protection Order – Controlled Drinking

Report of: Tom Day – Community Partnerships Manager

Portfolio Holder: Councillor Rosita Page, Communities Portfolio Holder

Status: Decision

Relevant Ward(s): All

1 Purpose of the Report

1.1 To consider a Public Places Protection Order (PSPO) that restricts the consumption of alcohol in public places in and around Market Harborough and Lutterworth Town Centres.

2 Recommendations:

2.1 **It is recommended that, having regard to the conditions within s.59 of the Anti-Social Behaviour, Crime and Policing Act 2014, a Public Spaces Protection Order (PSPO) is made to control drinking in Market Harborough and Lutterworth as set out in Appendix A.**

3 Summary of Reasons for the Recommendations

3.1 The existing Designated Public Places Orders (DPPOs) which have controlled drinking in public places since 2011 have been replaced by new legislation prompting a review.

3.2. The Community Safety Partnership considers that the DPPOs have been an effective deterrent to alcohol related crime and anti-social behaviour and should be replaced with a new PSPO.

3.3 Public consultation carried out indicates 81% support the proposal to convert the existing DPPO to a new PSPO.

3.4 The consultation and engagement process has included a review of the area covered by the PSPO against anti-social behaviour, criminal damage and public order offences for the last 12 months.

4 Key Facts

- 4.1 Under the Anti-Social Behaviour, Crime and Policing Act 2014, there is provision for local authorities to introduce measures to address anti-social behaviour in public spaces. To this end the Act replaces three existing powers with one new power – the Public Space Protection Order.
- 4.2 The orders replaced include DPPOs, which place controls on street drinking. It should be noted that any existing orders will remain in force for three years and at this point will be treated as a PSPO.
- 4.3 A PSPO does not make it illegal to carry alcohol or to drink alcohol in a public place. So long as drinking is done responsibly a PSPO will only be used to tackle potential alcohol related anti-social behaviour. Under these circumstances Police and Council Officers (where designated) will have the power to stop people drinking alcohol and seize or confiscate alcohol within the controlled area. If a member of the public fails to comply with an officer's request to stop drinking and/or dispose of alcohol, they could face a Fixed Penalty Notice (FPN) or being taken to court and receiving a fine on conviction of up to level 2 on the standard scale. Enforcement will be primarily carried out by Leicestershire Police and will arrest on breach should it be required.
- 4.4 A PSPO cannot be used to restrict the consumption of alcohol where the premises or its curtilage (a beer garden or pavement seating area) is licensed for the supply of alcohol. There are also limitations where either Part 5 of the Licensing Act 2003 or section 115E of the Highways Act 1980 applies. This is because the licensing system already includes safeguards against premises becoming centres for anti-social behaviour.
- 4.5 A PSPO will cease to have effect after 3 years; however, that period can be extended if it continues to be necessary.
- 4.6 The new order is more flexible and can be applied to a much broader range of issues, with local authorities having the ability to design and implement their own prohibitions or requirements where certain conditions are met these being that:

The Council must be satisfied on reasonable grounds that activities carried out in a public space will have or are likely to have:

- A detrimental effect on the quality of life of those in the locality,
- Are persistent or continuing in nature,
- Are unreasonable,
- And justify the restrictions imposed.

- 4.7 The results of a desktop review and consultation with key stakeholders, including Leicestershire Police was presented to the Community Safety Partnership (CSP) on 22 October 2015. This included a review of reported

incidents of anti-social behaviour, criminal damage and public order offences often associated with alcohol consumption. As set out in Appendix B incidents are concentrated in and around the Town Centres; around nearby shops, and at recreation grounds in close proximity. Feedback from frontline Police Officers is that the restrictions on drinking continues to be a deterrent and an effective tool and has contributed to reduced alcohol related crime and anti-social behaviour. For these reasons the CSP recommended that the current DPPOs be turned into PSPOs.

- 4.8 On the 27 October 2015, the Regulatory Committee approved the commencement of consultation on a proposed PSPO for new and enhanced powers on dog controls and replacement of DPPOs. The results are summarised in Appendix C.
- 4.9 The consultation process ran from 16 November to the 29 December 2015. 81% support the proposal to convert the existing DPPO to a PSPO.
- 4.10 Further consultation was carried out with the Councils Regulatory Committee on the 15 March 2016 including the recommendation from the CSP. The Committee resolved;
- That further consultation be carried out with District Councillors from Market Harborough and Lutterworth, in relation to the restriction of alcohol consumption [to remove unnecessary residential areas due to public concerns about being within a PSPO area] and;
 - That areas to be covered by the PSPO be amended and brought back to the Committee for further consideration. *Note: the feedback from the consultation with Members has been included in this report as the decision making body in this case is Executive rather than going back to Regulatory Panel.*
- 4.11 The feedback from the Regulatory Committee was discussed at the CSP meeting on 28 April 2016. The CSP noted that no complaint or concern had ever been received from a householder about signage or that their house was within the DPPO area. The CSP further considered reported incidents and feedback from frontline Police. This resulted in an alternative PSPO proposal for both Market Harborough and Lutterworth which was focussed on areas where there are a higher number of incidents- excluding a proportion of residential areas (Appendix D).
- 4.12 Consultation with Councillors was carried out between 13 and 27 May 2016. Two responses were received from Cllr Hill and Cllr Champion from Market Harborough who supported the existing boundary based on the spread of recorded incidents.
- 4.13 Although not necessarily a statutory requirement, signage would be required in the area explaining the order in plain English and what it means in practical terms. This is to provide support for the enforcement and prevent risks of mitigation pleas from those found to be in breach. Such signage would be small, concise and more or less identical to current DPPO signs. These would

ordinarily be on all major entrance-ways to the PSPO areas and if the existing areas were continued would be changed like for like with the existing signage.

- 4.14 If Executive agrees the adoption of the PSPO, there is a further requirement for publicity within the Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations. The Regulations require that where a Local Authority has made a PSPO, they must publish it on its website and erect such notices as it considers sufficient to advise members of the public that the PSPO has been made and the effect of such an order.

5 Legal Issues

- 5.1 On 3 November 2014, Executive delegated authority to the Corporate Director of Community Services to take action under the relevant parts of the Anti-Social Behaviour, Crime and Policing Act 2014 and to authorise such other relevant officers to take action under the Act. Executive are asked to note that the job title of Corporate Director – Community Services has been changed to Corporate Director (NP).
- 5.2 As outlined in paragraph 4.3 of this report, authorised officers will proceed to court proceedings where such action is considered proportionate and in line with the Council's Enforcement Policy.

6 Resource Issues

- 6.1 There will be a cost for signage and further press notices as set out in paragraph 4.13-14 of this report. It is estimated this cost will be up to £1,000 and will be met from existing budgets.
- 6.2 Enforcement will continue to be carried out by Leicestershire Police.

7 Equality Analysis Implications/Outcomes

- 7.1 The PSPO will have no significant implications on human rights with exceptions set out in the draft order.
- 7.2 An Equality Analysis was completed for consideration at the March Regulatory Committee and is attached as Appendix E. As a similar PSPO for Dog Controls was being considered at the same time a joint Analysis was completed for a PSPO to address Dog Ownership and Controlled Drinking.

8. Risk Management Implications

- 8.1 There are inherent risks associated with taking any enforcement actions. The adoption of a PSPO and implementation following Statutory Guidance will reduce those risks.
- 8.2 Not approving a PSPO may have an impact on community safety by reducing tools available to frontline Police and Council Officers.

9 Consultation

9.1 A summary of Consultation is set out in 4.3 and Appendix C of this report.

10. Options

10.1 Not adopting the PSPO would mean that the current DPPO orders would remain in force for three years from commencement of the new legislation.

11 Background Papers

11.1 Public Spaces Protection Orders - Extract from Anti-social Behaviour, Crime and Policing Act 2014 statutory guidance.

Previous report(s):

Information Issued Under Sensitive Issue Procedure: N

Ward Members Notified: N/A

Appendices:

Appendix A – Draft Public Spaces Protection Order

Appendix B – PSPO Crime and ASB Data 15-16

Appendix C – PSPO Responses to Controlled Drinking Zone Consultation

Appendix D – PSPO Alternative Maps

Appendix E – PSPO Equality Analysis