

REPORT TO: CABINET

DATE: 20 JULY 2019

TITLE: PUBLIC SPACE PROTECTION ORDER FOR TOWN CENTRE

PORTFOLIO HOLDER: COUNCILLOR EUGENIE HARVEY, DEPUTY LEADER AND PORTFOLIO HOLDER FOR COMMUNITY AND WELLBEING

LEAD OFFICER: JANE GREER, HEAD OF COMMUNITY WELLBEING (01279) 446406

CONTRIBUTING OFFICER: MARYSIA RUDGLEY, COMMUNITY SAFETY MANAGER (01279) 446115

This is a Key Decision
It is on the Forward Plan as Decision Number I008161
Call-in Procedures may apply
This decision will affect Toddbrook Ward.

RECOMMENDED that Cabinet:

- A** Approves the Public Space Protection Order (attached as Appendix 1 to the report) after considering the consultation responses.
- B** Approve that the Public Space Protection Order comes into force once all necessary signage has been put in place.
- C** Agrees that once implemented, the Public Space Protection Order is monitored for three years and a report on its impact is brought back with recommendations on any extensions, amendments or additions if required.
- D** Agrees that cases not covered by the Public Space Protection Order that require enforcement based on behaviour will continue to be enforced through the Council's Anti-Social Behaviour policy.

REASON FOR DECISION

- A** To agree to implement a Public Space Protection Order (PSPO) in Harlow Town Centre within the district of Harlow. This new Order prohibits certain behaviours and creates criminal offences for persons who do not comply with the Order.

BACKGROUND

1. On 19 July 2018, approval was given by Cabinet to enter into consultation in relation to implementing a PSPO in Harlow Town Centre within the district of Harlow. A copy of the PSPO can be seen at Appendix 1.
2. In October 2014, the Government implemented the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act). The purpose of the Act is to give local authorities and the Police more effective powers to tackle a range of anti-social behaviour (ASB) issues and to provide better protection for victims and communities.
3. Amongst these new tools and powers are PSPO's which are designed to stop individuals from committing ASB in a public space. It is for each individual Council to determine what behaviours they want to make the subject of a PSPO. However, the overarching consideration when considering a PSPO is whether the activity will have a detrimental effect on the quality of life of those in the locality.
4. When implementing a PSPO, there is a requirement to undertake a public consultation exercise. The statutory requirement is for the individual local authority to consult with the Chief Officer of the Police, the local policing body for the area, any other community representatives the local authority thinks it appropriate to consult and the owner or occupier of land within the restricted area.
5. PSPO's will provide Council's with a flexible power to implement restrictions to address a range of ASB issues in public spaces in order to prevent future problems.
6. Restrictions and requirements can be placed on an area where activities have, or are likely to have, a detrimental effect on the quality of life of local people, is persistent or continuing in nature and is unreasonable. These can be blanket restrictions or requirements, or can be targeted against certain behaviours at certain times. The PSPO can:
 - a) Prohibit specified things being done in an area;
 - b) Require specific things to be done in an area.
7. The prohibitions or requirements can also be framed so that they:
 - a) Apply to all persons, or only persons in specified categories, or to all persons except those in specified categories;
 - b) Apply at all times, or only at specified times, or at all times except those specified;
 - c) Apply in all circumstances, or only in specified circumstances, or in all circumstances except those specified.

8. The following conditions must be met before making the order:
 - a) Activities carried out in a public place within the local authority area have a detrimental effect on the quality of life of those living in the locality; or
 - b) It is likely that activities will be carried out in a public space within the area that will have such an effect; and
 - c) The effect, or likely effect of the activities:
 - i) Is, or is likely to be, of a persistent or continuing nature;
 - ii) Is, or is likely to be, such as to make the activities unreasonable; and
 - iii) Justifies the restrictions imposed by the notice.
9. The Guidance is not specific on what can be included in a PSPO. The potential for their use is broad and flexible to allow a Council to cover individual circumstances in its area. A PSPO can cover multiple restrictions so one order could prohibit or promote activities such as the drinking of alcohol and keeping dogs on a lead. The PSPO can cover any publicly accessible space within the Council's area, including areas in private ownership to which the public have access.
10. The order can be enforced by Police Officers, authorised Police Community Support Officers, authorised Council Officers and other designated persons, including officers under the Community Safety Accreditation Scheme.
11. Any interested person can challenge the validity of the PSPO in the High Court but the challenge must be made within six weeks of the Order being made. An 'interested person' means an individual who lives in the restricted area or who regularly works or visits that area.
12. A PSPO replaces existing provisions such as Designated Public Place Orders, which give powers to stop the drinking of alcohol in public places. Under the Act, if not reviewed earlier a PSPO will continue to be valid for a period of three years when the provision of the Act relating to the PSPO commenced.
13. A PSPO can be made for a maximum of three years. The legislation provides they can be extended at the end of the period, but only for a further period of up to three years. However, orders can be extended more than once. Local authorities can increase or reduce the restricted area of an existing order, amend or remove a prohibition or requirement, or add a new prohibition or requirement. They can also discharge an order but further consultation must take place for varying or discharging orders. On 19 July 2018 Cabinet authorised the undertaking of consultation on the introduction of a PSPO under the Act in respect of the following: cycling, alcohol and ball games.

Cycling

14. No person shall be permitted use of bicycles, skateboards, scooters or any other self-propelled vehicles (except Mobility Scooters) between the designated times of 09.00hrs and 18.00 as specified, outlined yellow on the attached map appendix 1.

Alcohol

15. Restrictions apply, at any time for the person(s) consuming alcohol or having an alcohol container, in the restricted area edged red as seen in Appendix 1, subject to the exemptions listed below:
 - a) In the area, appendix 1, any person who without reasonable excuse continues drinking intoxicating liquor in the restricted area when asked to stop by an authorised officer, commits an offence.
 - b) Or fails to surrender any intoxicating liquor in their possession when asked to do so by and authorised officer, commits an offence.
 - c) An authorised person who imposes a requirement under (a) or (b) above must tell the person that failing without reasonable excuse to comply with the requirement is an offence.

Ball Games

16. No person shall play ball games within the area outlined in red as seen in Appendix 1 including any game involving throwing, catching, kicking, batting or running with any ball or other object designed for throwing or catching excluding the provision of playing table tennis within the area hatched blue on the plan as seen in Appendix 1.

Outcome of Consultation

17. The Council engaged in a four week public consultation starting on 31 January 2019 and ending on 28 February 2019. Further consultation was deemed necessary after 28 February 2019 as the Council had received very few responses from those consulted with, therefore, further consultation took place from 12 March 2019 and ending on 12 April 2019.
18. Appendix 2 provides a list of those consulted with in respect of the proposed PSPO. This includes the District Commander, the local policing team, the Police Fire and Crime Commissioner, the owners or occupiers of land within the restricted area and community representatives.
19. The responses to the consultation and other consultation related documentation are attached as appendices as set out in the table below.

Table 1- Responses to Consultation Appendices

Appendix	Content
3	The Council's post on Facebook from period 31 January 2019 to 28 February 2019 together with 21 responses from members of the public. The Facebook post had 4,400 views.
4	Article regarding the proposed PSPO in the local newspaper The Guardian.
5	The Council's web page setting out the consultation for period 31 January 2019 to 28 February 2019.
6	Online responses received during period 31 January 2019 to 28 February 2019.
7	Email received from one Statutory Consultee, Harlow Police Chief Inspector. (From viewing a response from this Statutory Consultee there is no objection to the proposal although a view that the proposal should incorporate an additional subject matter)
8	The Council's web page setting out consultation questions for period 12 March 2019 ending on 12 April 2019.
9	Responses from members of the public
10	Two emails sent to Contact Harlow in response to the PSPO consultation.

20. Overall, there are very few objections to the proposal and support dominates for the implementation of the PSPO in Harlow Town Centre.
21. From viewing responses from members of the public there are some concerns regarding rough sleeping within Harlow Town Centre. It is the Council's intention to work with partner agencies to assist those rough sleeping and should the need arise use the appropriate anti-social behaviour legislation to deal with nuisance behaviour associated with rough sleeping when reported to Harlow Council.
22. Members of the public also have some concerns regarding aggressive begging within Harlow Town Centre. Again, it is the Council's intention to use the appropriate anti-social behaviour legislation to deal with nuisance behaviour associated with aggressive begging.

ISSUES/PROPOSALS

23. The Council recognises that there is appropriate available legislation to deal with other types of anti-social behaviour such as aggressive begging. It is proposed that the Council continues to work within its current Anti-Social Behaviour Policy dated 15 October 2015. A copy of the policy can be seen at Appendix 11.
24. Using the Anti-social Behaviour, Crime and Policing Act 2014 the Council have the power to use Acceptable Behaviour Contracts, Civil Injunctions, Criminal

Behaviour Orders, Community Protection Warning, Community Protection Notices and Injunctions to prevent conduct that has caused, or is likely to cause, harassment, alarm or distress to any person therefore nuisance behaviour such as aggressive begging can be addressed using the Anti-social Behaviour, Crime and Policing Act 2014.

25. In the first instance Community Protection Warnings and Notices can be used to stop a person aged 16 or over from committing anti-social behaviour which spoils the community's quality of life, authorised Officers from the Council and the Police have the powers to issue Community Protection Warnings and Notices should the behaviour exhibited have a detrimental effect on the quality of life of those in the locality, be of a persistent nature and be unreasonable.
26. The Community Protection Notice can deal with a range of anti-social behaviours including aggressive begging and can include requirements to prevent behaviour occurring again, a Community Protection Notice can be issued to someone aggressively begging requiring them to stop their behaviour, breach of a Community Protection Warning is a criminal offence and a fixed penalty notice can be issued.
27. Since the implementation of the Homeless Reduction Act 2018, which placed new duties on Local Authorities to prevent homelessness at an earlier stage and to embed a culture of prevention into services, the Council continue to work in line with the new Rough Sleeping Initiative to focus on helping and supporting people who are rough sleeping.
28. A strong focus on support has been introduced including assertive outreach teams. These teams will work in partnership with local agencies to support those sleeping rough and to address their complex needs by way of pathway plans. The plans will outline actions to be completed that aim to deliver positive outcomes and overcome personal and housing difficulties.
29. Prior to any enforcement action being taken against the behaviour of those sleeping rough, the Council will ensure, through partnership working, that outreach support is provided to engage with the individual and support them in their personal and housing circumstances.
30. It must be noted that should the implementation of the PSPO be agreed funding will be required to purchase and erect signage within the locality of Harlow Town Centre.

IMPLICATIONS

Place (Includes Sustainability)

None specific.

Author: Andrew Bramidge, Project Director – Enterprise Zone and Interim Head of Planning

Finance (Includes ICT)

None specific.

Author: Simon Freeman, Head of Finance and Deputy to the Managing Director

Housing

None specific.

Author: Andrew Murray, Head of Housing

Community Wellbeing (Includes Equalities and Social Inclusion)

A Public Space Protection Order will provide the Council with the power to implement sanctions to address a number of anti-social behaviour issues that may occur in the Town Centre.

Author: Jane Greer, Head of Community Wellbeing

Governance (Includes HR)

The Council has completed a robust consultation process and has given due regard to the responses received. Enforcement action as a result of the PSPO may impact on available legal resources.

Author: Simon Hill, Head of Governance

Appendices

Appendix 1- Copy of Draft Public Space Protection Order

Appendix 2 - List of Consultees

Appendix 3 – Social Media Responses

Appendix 4 – The Guardian (Local Newspaper) Press Release

Appendix 5 – Harlow Council's Web Page

Appendix 6 – Online Responses to Consultation

Appendix 7 – Response from Statutory Consultee

Appendix 8 – Online Consultation Question after 12 March 2019

Appendix 9 – Online Responses to Consultation after 12 March 2019

Appendix 10 – Email Responses to Consultation after 12 March 2019

Appendix 11 – Anti-Social Behaviour Policy dated 15 October 2015

Background Papers

None.

Glossary of terms/abbreviations used

ASB – Anti-Social Behaviour

PSPO – Public Space Protection Order