

Report to: Cabinet Meeting - 20 February 2024
 Portfolio Holder: Councillor Paul Taylor, Public Protection & Community Relations
 Director Lead: Matt Finch, Director of Communities and Environment
 Lead Officer: Jenny Walker, Business Manager - Public Protection, Ext. 5210

Report Summary	
Type of Report	Open Report, Key Decision
Report Title	Public Spaces Protection Orders within Newark and Sherwood
Purpose of Report	To outline to the Cabinet the existing orders in place and their end dates and to set out the first stage draft orders for public consultation
Recommendations	<p>That Cabinet:</p> <ul style="list-style-type: none"> (a) approve the draft PSPO orders, as set out, to be issued for the first stage public consultation for a period of 6 weeks; and (b) delegate authority to the Director of Communities and Environment in consultation with the Portfolio Holder for Public Protection & Community Relations, to approve amendments from the first stage consultation to be made to the final draft order to be issued for the final 4 week consultation period.
Alternative Options Considered	<ul style="list-style-type: none"> • Do nothing – a number of orders that are due to end in 2024 would not be renewed in time and would lapse. This would mean there would be no controls in place and no enforcement action could be taken. • Reduce the number of orders – This would reduce the ability for enforcement action to be taken in certain areas where ASB is causing an issue. • Increase the number of orders – PSPOs can only be placed where there is a justification and evidence to support. They must also be enforceable.
Reason for Recommendations	The implementation of PSPOs within Newark and Sherwood aligns with the Community Plan objective to Reduce Crime and Anti-Social Behaviour.

	All PSPOs must be subject to public consultation to ensure the locations and controls are understood and are considered to be in the right places.
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1.0 **Background**

1.1 The Anti-Social Behaviour, Crime and Policing Act 2014 sets out the legislative framework around the creation of Public Spaces Protection Orders (PSPO) and the offences for breaching any requirements within an approved PSPO.

1.2 There are currently a number of PSPOs in place within NSDC, these include:

- **Dog control** – District wide order – this enables enforcement for dog fouling across the district and sets out location where dogs are either excluded, must be on lead or must be placed on lead when directed by an Authorised Officer.
- **Dispersal** – Direction to leave any area due to behaviour
 - Newark Town Centre
 - Balderton Lakes
 - Coronation Park, Balderton
 - Lakeside Shopping Centre, Balderton
- **Fire Control** – Vicar Water
- **Alcohol control** – Newark Town Centre

1.3 Several PSPOs will end in 2024 and to ensure that the appropriate orders are reviewed and in place before the existing orders lapse, it is necessary to prepare new orders and undertake a two-stage public consultation process. This process ensures that all residents, businesses, partner agencies and wider groups and organisations have an opportunity to consider the proposed orders and to make comment.

1.4 Public consultation is a required as part of the legal process to ensure that the orders are in the correct place to deal with ASB issues in those localities and that the public have an opportunity to comment on the proposals. For an order to be made, it must meet a number of legal tests:

- The activity to be controlled must be having a detrimental effect on the community, must be (or is likely to be) persistent or continuing, and must be unreasonable.
- Evidence to support the making of the order– evidence of the issue in a given locality from reporting data, clear location map in line with the data.
- Enforceability – the restrictions or requirements set out in the order must be enforceable. They should be clear and concise and understandable by all.

1.5 To ensure that the key areas were considered, in advance of the first stage of public consultation, all town and parish councils along with the Police and Nottinghamshire Fire and Rescue Service were requested to consider what orders they had within their areas and to advise of any required amendments or requests for additions. Where it was felt new orders were required, evidence to support any new orders was also requested to be submitted for consideration.

- 1.6 Due to an error in the emailing of the town and parish councils, not all received the request pre-Christmas and although this rectified post-Christmas, due to the different dates of meetings not all have been able to respond by the requested timescale. As this was an initial consultation to inform the first draft orders, the town and parish councils will still have a further 2 rounds as part of the public consultations to ensure that their comments are included.

2.0 Public Consultations

- 2.1 The guidance for the creation of PSPOs does not define a prescribed period of public consultation but requires that the time allowed is meaningful to the orders being proposed. Due to the number of orders being considered, a two-stage public consultation will take place. The first stage consultation will last for 6 weeks, where we expect to get the majority of comments and requests for amendments to be considered. Following a review of all comments received alongside evidence provided and data review, the final proposed orders will be drafted. A further public consultation will follow for a period of 4 weeks, where we expect to see significantly less responses having considered comments in the first round.
- 2.2 A smart survey on our website will be created for residents, businesses and organisations to comment on the proposed orders. The survey will be created in a way that allows comments to be provided to all or to just specific orders they are interested in. Notification of the public consultation will take place through widespread communications and direct notification to key organisations such as the Police, Fire Service, Town and Parish councils, Dogs Trust, RSPCA, Kennel Club and vets etc. For those who do not have access to the internet, a paper based survey will be available to complete and return.

3.0 Proposal/Details of Options Considered

- 3.1 It is proposed to put in place a number of PSPOs across the district, some of the orders provide a continuation for orders already in place, with suitable evidence in place to support their continuation. An additional order is also requested for the prohibition of vehicles at Eaking Road and Fire Control and Sconce and Devon Park. The proposed orders are:
- **District wide Dog Control (Appendix 1)** – The existing dog control PSPO has transferred over the years from the original Dog Control Orders. Several requests have been received from town and parish councils to amend the controls and/or locations of specific dog controls.
The new controls include district wide Dog Exclusion to all enclosed play areas and to other specific stated locations, district wide dogs on lead by direction and dogs on lead requirements and dog exclusion in specific stated locations. The order also covers the whole district requiring dog owners to clear up any dog fouling.
 - **Fire Control – Vicar Water and Sconce and Devon (Appendix 2)** Prohibition of fires and BBQs at Vicar Water and Sconce and Devon parks. The Vicar Water order is an existing order, whereas the Sconce Devon is a proposed new order to combat the same issues experienced at Vicar Water. Nottinghamshire Fire and Rescue Service supports the continuation of Vicar Water and will be consulted on the new order through the public consultation process.

- **Alcohol Controls (Appendix 3)** – Newark Town Centre – Alcohol controls are currently in place for Newark Town Centre, an amendment has been made to the requirements of the order requiring the alcohol to be removed rather than allowing the alcohol to be consumed by direction.
- **Dispersal (Appendix 4)** – Newark Town Centre, Balderton Lakes, Lakeside Shopping Centre, Coronation Park. All of the dispersals are currently in place and the continuation of them is supported by Police data. Amendments have been made to the map area for Newark Town Centre to ensure it covers further along the river to the weir. The Balderton dispersals will be placed into one order and map instead of three separate orders.
- **Restriction of Vehicles – Eakring Road (Appendix 5)** – The restriction of access to Eakring Road, by motor vehicles to prevent fly-tipping and nuisance vehicles including off road bikes. This is a Nottinghamshire County Council highway running through Forestry England land and is supported by both organisations.

- 3.2 It is recommended that the above listed draft PSPOs as provided in the appendices be circulated for the first stage 6-week consultation period. The orders as stated above provide suitable controls for current and ongoing issues in key localities. We are satisfied that the orders as proposed meet the required legal tests and that they are enforceable. Any comments, suggestions or concerns raised will be considered at the end of the first stage consultation. Where it is felt appropriate for amendments to be made based on those responses, these will be discussed with the Portfolio Holder for Public Protection and Community Relations and the Director of Communities and Environment, alongside legal services in advance of any changes made to the orders.
- 3.3 Once the public consultation has been completed and any comments and amendments have been considered as stated above. The 2nd stage public consultation will commence for a period of 4 weeks. The final orders, following both public consultations will be brought to cabinet for final approval. The orders will become effective in June 2024 and will remain in place for a period of 3 years.
- 3.4 Should an emerging issue arise after these orders are made, and it is deemed appropriate for a PSPO to be made to deal with the issue, this will be undertaken in the same way as this process and will not have to wait until these orders come up for review.
- 3.5 An initial Equalities Impact Assessment has been completed, which has not highlighted any negative impacts that would require a full equalities impact assessment being completed. In most cases the impacts are neutral in that the enforcement of the orders applies to all. There are legally stated exemptions to the orders for those with certain disabilities, such as those who are registered blind in relation to dog fouling. Therefore, there is no negative impact. Some of the orders in place will place controls that will help to improve the environment, which would have a positive impact. As there are fines attached for any breach of a PSPO by the issuing of an FPN, where there is any group who are in financial hardship, a payment plan can be considered.

4.0 Implications

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding,

Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

4.1 Financial Implications FIN23-24/5839

There will be a requirement for a review of all signage across the district to ensure that all orders in place have appropriate signage. This is essential to ensure that the public is clear the area covered by the PSPOs and what the controls are whilst in that area. Many of the existing signs for the dog control orders will remain suitable and sufficient. There are a few areas that have requested amendments to the dog control and therefore new signs will be required to be installed. Any other PSPO amendments will require signage considerations. A reserve budget is in place for signage changes and replacements, which will cover any requirements.

4.2 Legal implications

Section 59 of the Anti Social Behaviour Act 2014 provides that local authorities may make a public space protection order provided that 2 conditions are met:

The first condition is 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 such an effect.

The second condition is that the effect, or likely 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 by the notice.

The imposition of such orders must be supported by evidence which meets the 2 conditions above.

The prohibitions or requirements that may be imposed are ones that are reasonable -

- (a) to prevent the detrimental effect referred to in subsection (2) from continuing, occurring or recurring, or
- (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

The validity of the order may be challenged at the high court on the grounds that the Council did not have the power to make the order or include certain prohibitions or that a requirement under the Act was not complied with.

In deciding whether to make a PSPO and formulating its contents, local authorities must

- (a) consult;
- (b) publicise; and
- (c) notify.

The Council must have particular regard to the rights of freedom of expression and freedom of assembly safeguarded by arts 10 and 11 of the European Convention on Human Rights (s.72(1) ASBCPA 2014). Article 8 rights to privacy or family life may also be relevant in terms of protecting the rights of those effected by anti-social behaviour.

Proposals for PSPOs should be accompanied by a detailed Equality Impact Assessment, and care must be taken to ensure that PSPOs do not directly or indirectly discriminate against groups sharing protected characteristics such as disability, race and ethnicity or gender.

4.3 Data Protection

The consultation process allows data subjects to voice their opinions prior to the final drafting of the PSPOs. The signage review will inform individuals of the PSPOs. The website and privacy notice will require updating once the PSPOs have been finalised and approved to ensure transparency. I am satisfied that there is consideration of the rights and freedoms of data subjects and that this process is compliant with the UK Data Privacy laws.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

None.