

BARNSELY METROPOLITAN BOROUGH COUNCIL

This matter is a Key Decision within the Council's definition and has been included in the relevant Forward Plan

Report of the Interim Executive
Director Communities

Proposed Introduction of a Public Spaces Protection Order for Barnsley Town Centre and Surrounding Residential Area.

1. Purpose of report

- 1.1 This report intends to provide cabinet with a summary of the findings of an in-depth investigation into alleged anti-social behaviour in and around Barnsley town centre and to seek authority to enter into a period of statutory consultation with our community with regards the introduction of a Public Spaces Protection Order (PSPO).

2. Recommendations

- 2.1 That based on the synopsis of findings so far cabinet agrees it would be prudent to enter into a statutory consultation with the community with regards the introduction of a Public Spaces protection Order (PSPO).
- 2.2 That the proposed terms of the order described in section 5 are agreed as the basis for the consultation and are regarded as both proportionate and necessary.
- 2.3 That the proposed boundaries detailed in Appendix 2 are agreed as an appropriate area of coverage for any subsequent PSPO based upon evidence and intelligence gathered during the investigation.
- 2.4 That the outcome of the PSPO consultation will be reported back to cabinet in due course whereby a decision to proceed or not be taken.

3. Introduction

- 3.4 Cabinet endorsed the council's new antisocial behaviour policy in July 2015. The policy outlined the council's approach to dealing with anti-social behaviour set within the context of a new legislative framework (Anti-Social Behaviour Crime and Policing Act 2014) placing greater responsibility on the council and its partners to address the needs of victims. The policy recognised and embraced the streamlining of tools and powers allowing councils and statutory partners to respond flexibly to issues of concern in the context of the impact locally.

- 3.5 One of the “streamlined” powers introduced was the Public Space Protection Order (PSPO) which is specifically delegated to local authorities and was designed to replace existing control orders affecting the public realm such as Designated Public Place Orders (DPPOs).
- 3.6 The aim of the PSPO was to provide local authorities with the necessary powers to introduce restrictions upon activity and behaviours deemed to be anti-social and occurring in “public spaces”. The legal test applied to establish and satisfy that there are grounds for a PSPO is that the behaviours being proscribed have “a detrimental effect upon the quality of life of those in the locality” and are “persistent or continuing” in nature and such behaviour is “unreasonable”.
- 3.7 A PSPO is designed to restrict and prohibit certain behaviours where the above evidential tests are satisfied and those restrictions are set and implemented by the local authority in designated locations. The Act requires that consultation is undertaken with those likely to be affected by an order.
- 3.8 Once introduced a PSPO can be enforced by both the local authority (authorised personnel) and the police and any breach of the order is a criminal offence which can be discharged via fixed penalty notice (£100) or up to £1000 fine upon prosecution.
- 3.9 Between 2012/13 and 2014/15 there have been significant increases in recorded incidents of anti-social behaviour in the town centre and the central electoral ward. The scale of increase in these locations is not replicated across the borough suggesting that there are specific challenges peculiar to these areas. The overall two year increase in recorded incidents for the central electoral ward is 23% with the town centre seeing a 26.2% increase in 2013/14 and a further 6.1% increase in 2014/15.
- 3.10 Part of the council and police response to these increases has been to establish a multi-agency tactical working group tasked by the community safety partnership to arrest the scale of increase and tackle specific problems of anti-social behaviour in the town centre and outlying residential areas. Whilst early progress has been made in reducing the trend increase and problems in key locations such as the interchange have been reduced significantly the tactical group has requested that work be done to consider whether existing evidence and intelligence would support the introduction of a PSPO to further strengthen the council and polices’ ability to address the problems.
- 3.11 For this reason the enforcement team within the Stronger Safer Healthier business unit have embarked upon a month long programme of collecting and collating evidence and intelligence from a variety of sources to determine and inform a decision with regards progressing towards the introduction of a PSPO.

4. Consideration of alternative approaches

- 4.1 Addressing the rise in anti-social behaviour in and around the town centre has emerged as a key priority for the council and its partners. The Town Centre developments provide a key driver for us to consider and the Barnsley Economic Partnership has also identified this as a key challenge. To this extent a number of alternative approaches have been considered and some implemented in an attempt to improve behaviour and perceptions of safety. These include targeted work with individuals and families, specific targeted operations to address key locational problems such as the interchange, increases in lower level enforcement activity including targeting littering and dog fouling and the introduction of specific by-laws to protect PALS square.
- 4.2 Despite the ongoing attention of all partners and resulting from a more in depth investigation into the nature extent and impact of anti-social behaviour in these locations, it is felt appropriate to consult with the public and local businesses around extending the powers available to the police and council to further tackle problems of this nature through a PSPO.

5. Proposal and justification

- 5.1 The proposal is for cabinet to authorise entering a period of consultation around the introduction of a Public Space Protection Order for the area demarked on the map at Appendix 2. The proposed prohibitions to be contained in an order and forming the basis of the consultation would be as follows.

Conditions in the order which are prohibitions:

(a) In the restricted areas a person commits an offence if without reasonable excuse he or she continues to carry out activities which by the order are prohibited, namely:

- (i) Behaving in a way that causes or is likely to cause harassment, alarm or distress to any other person.**
- (ii) Using, possessing or supplying to another person any intoxicating substance, defined for the purposes of this order as any substance with the capacity to stimulate or depress the central nervous system.**

Exemptions shall apply in the following cases, which will not be considered to be “intoxicating substances” for the purposes of this order:

Alcohol, caffeine, cases where the substances are used for a valid and demonstrable medicinal use, substances given to an animal as a medicinal remedy and cigarettes (tobacco).

(iii) Continuing to consume alcohol when required to stop doing so by any authorised officer

Conditions in the order which are requirements:

- (b) In the restricted areas and relevant to the conditions set out in 5.1(i) and 5.1(ii) 5.1 (iii), a person commits an offence if without reasonable excuse, he or she fails to comply with any activity that they are required to undertake by an authorised officer namely:**
- (i) To leave the restricted area and not return within 48 hours of the request to leave;**
 - (ii) To immediately surrender any alcohol in his or her possession upon request**

5.2 A summary of evidence and intelligence is attached at Appendix 1. This shows the following;

1. Significant disruption to “quality of life” for residents and businesses in the locations identified on the map see Appendix 1.
2. Over 10 written testimonies outlining the types and impact of behaviours upon individuals, residents and businesses within the areas concerned.
3. Support for a PSPO to assist in regulating behaviour from South Yorkshire Police and Dan Jarvis MP and a statement from Mr Jarvis on behalf of his constituents.
4. Impact of related anti-social behaviour extending beyond the boundaries of the commercial town centre into residential areas adjacent to the town centre.
5. High levels of South Yorkshire Police incidents mapped over a six month period between January and June 2015. See Appendix 1.
6. Higher proportionate increases in reported anti-social behaviour in comparison to other locations.

5.3 That the existing Designated Public Place Order which prohibits the consumption of alcohol in certain defined areas of the town centre will not be affected by the proposed PSPO

5.4 A draft Public Space Protection Order is attached at Appendix 2.

6. Implications for local people / service users

6.1 The introduction of a PSPO following a period of statutory consultation would aim to improve the quality of life and experience for all residents businesses and visitors to the town centre and surrounding residential areas. The proposed terms of the order would prohibit certain activities which some local people may be involved in therefore some may feel negatively impacted by the introduction of such an order. The intention of the consultation period is to gauge the public mood pertaining to a PSPO and the behaviour it would proscribe in order to demonstrate that the impact would be broadly positive for local people and service users. The desired impact of a PSPO is to “ensure the law-abiding majority can use and enjoy public spaces safe from anti-social behaviour”.

7. Financial implications

- 7.1 There are no material financial implications associated with this report. The London Borough of Lambeth recently 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 Barnsley as the order being consulted on is restricted to a smaller location.

8. Employee implications

- 8.1 Accredited officers from the Safer Barnsley team would have a role in enforcing any subsequent PSPO.

9. Communications implications

- 9.1 There are significant communication implications at the consultation stage for a PSPO. Home Office guidance requires councils to “consult whatever community representatives they think appropriate... “Prior to the introduction of a PSPO the council must also “ publish the draft order in accordance with regulations published by the secretary of state”. The consultation plan and associated documents are attached at Appendix 3

10. Consultations

- 10.1 Consultations have taken place with the Director of Legal and Governance, the Director of Place and the Director of Communities. Consultations have also taken place with the Barnsley Economic Partnership, South Yorkshire Police, the Police the local Member of Parliament and local elected members.

11. The Corporate Plan and the Council’s Performance Management Framework

- 11.1 The PSPO proposal will support the delivery of the following strategic priorities:

Thriving and vibrant economy

- Develop a Vibrant Town Centre

People achieving their potential

- Children and adults are safe from harm
- Early targeted support for those that need it

Strong and resilient communities

- Protecting the Borough for future generations

- 11.2 Performance will be actively monitored to ensure continuous improvement through a stratified risk and performance framework with a detailed action plan and number of supporting performance indicators.

12. Tackling health inequalities

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

13. Climate Change & Sustainable Energy Act 2006

- 13.1 There are no implications.

14. Risk management issues

- 14.1 The Key risks and mitigations with regards consultation and introduction of a PSPO are as follows;

1. Public expectations are raised unrealistically and a subsequent order cannot be robustly enforced. To mitigate this during the consultation period partners from the council and police will be working through an enforcement plan and schedule pending pre-empting the implementation of the PSPO should that decision be made
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 South Yorkshire Police to ensure that the geographical area being considered has (where possible) clearly defined geographic demarcation (such as major roads or railway line) and 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 any order regularly and be drawn into the criminal justice system. To mitigate this it is intended to ensure that where specific issues are identified (such as substance misuse or family breakdown) individuals will be provided 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.

15. Health, safety, and emergency resilience issues

- 15.1 Staff occupational risk assessments are currently being reviewed to ensure safe working practises should an order be made.

16. Compatibility with the European Convention on Human Rights

- 16.1 Articles 10 right to freedom of expression and article 11 right to assembly are relevant considerations when making an order. The Director of Legal and Governance must be satisfied that the impact of the behaviours proscribed or required more broadly negatively impacts the rights of individuals under article 8 and the rights of individuals to the peaceful enjoyment.

17. Promoting equality, diversity, and social inclusion

17.1 Prior to an order being implemented (should that be the decision of Cabinet) a full equality impact assessment will be undertaken. However any order would be designed to provide a safe and peaceful environment for all residents of the borough and therefore should be supportive of the needs of those most affected by the fear of crime. However it must also be recognised that the behaviours being targeted by any subsequently introduced order may be more prominent in individuals typically already isolated from the wider community. A summary Equality Impact Assessment is attached at Appendix 4.

18. Reduction of crime and disorder

18.1 The purpose of a PSPO would be to assist in providing the necessary powers and environment to affect a reduction in disorder in the designated areas.

19. Conservation of biodiversity

None.

20. Glossary

PSPO – Public Spaces Protection Order

21. List of appendices

Appendix 1 – Summary of evidence and accompanying papers
Appendix 2 – Draft Public Spaces Protection Order
Appendix 3 - Consultation Plan
Appendix 4 – Summary Equality Impact Assessment

22. Background papers

Anti-Social Behaviour, Crime and Policing Act 2014 held by Safer Barnsley

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Financial Implications /
Consultation



MARK WOOD

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(To be signed by senior Financial Services officer
where no financial implications)