

<b>Title of Report</b>	<b>PUBLIC SPACES PROTECTION ORDER REGARDING BINS LEFT ON STREETS IN SELECTED STREETS IN COALVILLE</b>	
<b>Presented by</b>	Cllr Andrew Woodman Portfolio Holder for Community Services	
<b>Background Papers</b>	None	<b>Public Report:</b> Yes
		<b>Key Decision:</b> No
<b>Financial Implications</b>	None	
	<b>Signed off by the Section 151 Officer:</b> Yes	
<b>Legal Implications</b>	Covered within the report	
	<b>Signed off by the Deputy Monitoring Officer:</b> Yes	
<b>Staffing and Corporate Implications</b>	None	
	<b>Signed off by the Head of Paid Service:</b> Yes	
<b>Purpose of Report</b>	To seek the following: <ol style="list-style-type: none"> <li>1. Approval of the introduction of a Public Spaces Protection Order (PSPO) that relates to Bins on Streets in restricted areas</li> <li>2. Delegation for future renewals of the PSPO to the Director of Place</li> </ol>	
<b>Reason for Decision</b>	Section 46 of the Environmental Protection Act 1990	
<b>Recommendations</b>	<b>THAT CABINET:</b> <ol style="list-style-type: none"> <li>1. <b>APPROVES THE INTRODUCTION OF A PUBLIC SPACES PROTECTION ORDER IN RELATION TO BINS ON STREETS AT THE SPECIFIED AREAS WITHIN THE REPORT WITH THE REVISED TIMES FOLLOWING PUBLIC CONSULTATION FEEDBACK</b></li> <li>2. <b>DELGATES FUTURE DECISIONS ON RENEWAL OR AMENDMENT OF THE PSPO TO THE DIRECTOR OF PLACE</b></li> </ol>	

## 1.0 BACKGROUND

- 1.1 Section 46 of the Environmental Protection Act 1990 allows waste collection authorities, of which NWLDC is one, to make arrangements in relation to the collection of household waste. However, some years ago the government was concerned that some local authorities were being “overzealous” in fining people for leaving bins out for a few hours too long and/or for putting the wrong waste in recycling containers.
- 1.2 In view of this there was a change to the legislation that stated fines could not be issued for putting the wrong waste in recycling bins and which made leaving bins out a civil penalty.
- 1.3 The government also introduced a test before a fine could be considered for leaving bins out, this meant that one of the following had to be present before any action could be taken:
  - Causes or is likely to cause a nuisance
  - Is, or is likely to be detrimental to any amenities of the locality
- 1.4 Examples given by the government that would meet the above criteria are as follows:
  - An obstruction is caused, forcing people to walk on the road
  - Restrict access to pavements/streets by leaving receptacles out for several days
  - Likely to attract vermin
  - Unsightly i.e. bags torn open or bins tipped over
- 1.5 In reality it is difficult to meet the criteria as in the areas we will highlight the only example that may fit is “restrict access”.
- 1.6 Furthermore, if the criteria are met, a staged approach involving written warnings, fixed penalty notices and appeals must be followed under section 46A of the Environmental Protection Act 1990 however, due to the complexity of the process this could take anywhere up to six weeks.
- 1.7 The issue is, this does not stop the matter reoccurring and we have to follow the same process again and so it goes on and on.
- 1.8 Environmental Protection’s view in relation to the above system is perfectly reasonable in areas/streets where we get one off complaints however, it is not workable for those streets where we get regular complaints/and or persistent problems are identified.
- 1.9 Environmental Protection has received 37 complaints over the last four years in reference to bins being left between collections in the areas identified and causing an obstruction to the pavement. Officers from Environmental Protection have also observed and have confirmed that bins are left out on a regular basis in these areas. It is on this basis that officers recommend the introduction of a PSPO to control the issues within these areas. The PSPO will give more effective powers to deal with the issues that are created with bins being left out on the streets. A summary of officer observations is at Appendix A.

## **2.0 THE PUBLIC SPACES PROTECTION ORDER FOR RESIDENTIAL BINS ON THE HIGHWAY IN RESTRICTED AREAS**

2.1 A local authority may make a public spaces protection order if satisfied on reasonable grounds that;

- (1) activities carried on in a public place within the authority's area have had, or will have, a detrimental effect on the quality of life of those in the locality, and
- (2) 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 by the notice.

As mentioned in paragraph 1.9 Environmental Protection has received 37 complaints over the last four years in relation to bins being left between collections and have observed themselves bins being left out on a regular basis.

Environmental Protection is therefore of the view that bins are being left on the highway in the restricted areas, that this is having a detrimental effect on those quality of life of those in the locality (evidenced by the complaints received), that this is persistent and continuing, is unreasonable (as it is not difficult for relevant persons to return the bins to within the curtilage of their property – with exception being allowed for those with mobility issues) and the requirement to return them is justified.

The proposed PSPO is set out below:-

### **2.2 Duration**

This Order shall come into force on 27/07/2021 and shall have effect for a period of three years thereafter, expiring on 26/07/2024 unless extended by further orders under the Council's statutory powers.

### **2.3 The Restricted Areas**

The Order relates to all residential premises in the areas highlighted in the plan detailed in Appendix B, these areas are commonly known as:

- Berrisford Street, Coalville
- Margaret Street, Coalville
- Melbourne Street, Coalville
- Bridge Road, Coalville
- Adam Morris Way, Coalville
- William Bees Road, Coalville
- Mantle Lane, Coalville (House numbers 4-30)

“the Restricted Areas”

### **2.4 Persons to whom this Order applies**

This Order applies to all Relevant Persons(\*) in a position to control residential premises located within the Restricted Areas.

### **2.5 The Activity**

Waste bins left out on the highway for prolonged periods of time (“the Activity”).

The Council is satisfied that the Activity causes obstructions to pedestrians and an increase of litter and waste in the Restricted Areas and therefore has had a

detrimental effect on the quality of life of those in the locality, is unreasonable, and justifies the restrictions being imposed.

## **2.6 Requirements/Prohibitions**

2.6.1 Each Relevant Person is required to ensure that all household waste stored at Residential Premises(\*) and/or presented, or to be presented, for collection from Relevant Premises shall be contained in receptacles provided by the Council.

2.6.2 Relevant Persons are prohibited from storing receptacles outside the boundary of Relevant Premises other than between 6pm the night before collection is due and 9pm on the day of collection.

2.6.3 Each Relevant Person shall have an equal and separate responsibility in relation to the above requirement at 2.5.1, and the prohibition at 2.5.2, whether physically present at the Relevant Premises at the relevant time or not.

## **2.7 Offences**

Any person failing to comply with this Order will be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale, pursuant to section 67 of the Act.

No person shall be guilty of an offence under this Order if that person demonstrates that he or she has taken all such steps as were reasonably available to that person to secure compliance, provided that proof of the same lies with that person.

## **2.8 Fixed Penalty Notices**

A constable or a person authorised by the Council may issue a fixed penalty notice up to £100 to anyone he or she has reason to believe has committed an offence in relation to Order.

A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the council.

Failure to pay a fixed penalty notice may lead to prosecution.

## **2.9 Definitions – for the purpose of this Order**

“Relevant person” means any person residing in, whether permanently, or temporarily, by legal right or simple occupation at any premises situated in the Restricted Areas. Further, any owner or managing agent of any premises let on a periodic tenancy and situated in the Restricted Areas.

“Relevant premises” refers to residential premises within the Restricted Areas.

“The Act” refers to the Anti-Social Behaviour, Crime and Policing Act 2014.

“The Council” is North West Leicestershire District Council.

## **3.0 APPEALS**

If any interested person questions the validity of this Order on the grounds that the Council did not have the power to make the Order or that a requirement under the

Act has not been complied with, then he or she may apply to the High Court within 6 weeks of the date that this Order is made.

The right to challenge also exists where an Order is varied by the Council.

When such an application is made, the High Court can decide to suspend the operation of the Order pending the Court's decision, in part or totality. The High Court also has the power to uphold the Order, quash the Order or vary the Order.

#### **4.0 CONSULTATION**

4.1 In order to introduce a PSPO a consultation process must be followed which requires that the following key stakeholders are consulted

- Chief Officer of Police
- Police and Crime Commissioner
- Owners and occupiers of properties within the proposed restricted areas

The proposed order was publicised on the Council website for 4 weeks and the Council publicised the proposal on social media platforms Facebook and Twitter. The consultation commenced on Friday 4 June, 2021, 17:00 and ended on Friday 2 July, 2021, 23:59

4.2 The Council has directly consulted (in that letters enclosing a copy of the PSPO were sent directly to residents) with over 460 residents who will be affected by the PSPO.

16 comments were received in total. The comments received and the responses provided are detailed at Appendix C. All comments received will be provided with an individual response for those that have provided details to respond to.

Comments made on social media during the consultation process were responded to at the time.

Details on the media interest during the consultation period are also detailed in Appendix C.

4.3 The objections received were in relation to the times suggested (6pm the night before and 9pm the day of collection). The objections indicated that the time to retrieve their bin was too short. Therefore, to address these objections the time period has been increased and revised times have been proposed which are in the amended draft order at Appendix D.

Some of the objections mentioned the collections crews not returning the containers neatly, causing obstructions.

Other objections mentioned the receptacles being inadequate.

These comments will be responded to individually and although not specifically relevant to the PSPO have been taken on board and our Waste Services team have been made aware of the comments and will be provided with copies of the responses when these are sent.

4.4 As highlighted above following the consultation feedback, it is proposed to amend the times outlined in Section 2.5.2 of the PSPO from between 6pm the night before

collection and 9pm on the day of collection to 12 noon the day before collection is due, and 12 noon on the day after collection.

4.5 The revised PSPO can be found at Appendix D to this report.

<b>Policies and other considerations, as appropriate</b>	
Council Priorities:	<ul style="list-style-type: none"> <li>- Developing a clean and green district</li> <li>- Our communities are safe, healthy and connected</li> </ul>
Policy Considerations:	N/A
Safeguarding:	N/A
Equalities/Diversity:	N/A
Customer Impact:	The PSPO places a legal requirement on relevant person(s) at relevant premises in the restricted areas to return their bins to the curtilage of their premises within the relevant times
Economic and Social Impact:	N/A
Environment and Climate Change:	PSPO required to help towards a safer environment
Consultation/Community Engagement:	Please see consultation Section 3.2 above and details of consultation comments and responses at Appendix B
Risks:	<p>The PSPO allows enforcement officers to carry out their duties with regard to bins being left out on the highway between waste collections.</p> <p>The PSPO has to be reviewed at least once every three years.</p> <p>It can be amended or cancelled at any time.</p>
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