

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 1 MARCH 2022



Title of Report	PUBLIC SPACES PROTECTION ORDER (PSPO) ASHBY DE LA ZOUCH	
Presented by	Cllr Andrew Woodman Portfolio Holder for Community Services	
Background Papers	<u>Anti-Social Behaviour, Crime and Policing Act 2014</u>	Public Report: Yes
		Key Decision: Yes
Financial Implications	Required signage to be funded by the Community Safety Partnership budget.	
	Signed off by the Section 151 Officer: Yes	
Legal Implications	The order will provide the police with an on the spot enforcement tool to be able to tackle anti-social behaviour involving alcohol and/or psychoactive substances within the restricted area of Ashby De La Zouch. The penalty for not complying with a request from an officer would likely be a fixed penalty notice (FPN) being issued with the potential for a prosecution if the FPN is not paid or for repeat offenders.	
	Signed off by the Monitoring Officer: Yes	
Staffing and Corporate Implications	The management of the PSPO will not require any additional staffing resources as any work undertaken will be absorbed within current officer workloads.	
	Signed off by the Head of Paid Service: Yes	
Purpose of Report	For Cabinet to give consideration to the introduction of a Public Spaces Protection Order relating to a) Alcohol use/possession in a public space within the restricted area of Ashby De La Zouch; and b) Psychoactive substance use/possession in a public space within the restricted area of Ashby De La Zouch.	
Reason for Decision	To provide additional powers to the police and council officers in combatting anti-social behaviour involving alcohol and/or psychoactive substances.	
Recommendations	THAT CABINET APPROVES THE INTRODUCTION OF THE PUBLIC SPACES PROTECTION ORDER AS SET OUT WITHIN APPENDIX 1.	

1.0 Background

- 1.1 In October 2014 the Anti-Social Behaviour, Crime & Policing Act 2014 (the “Act”) was introduced. Within the Act, existing anti-social behaviour tools and powers were reviewed and condensed. PSPOs were introduced which incorporated previous powers such as Designated Public Place Orders (DPPOs); Gating Orders; and Dog Control Orders. This allowed local authorities to identify problematic behaviours within their own area and provided one tool to tackle these.
- 1.2 The legal tests for introducing a PSPO focus on the impact that anti-social behaviour is having on victims and communities. A PSPO can be made by the Council if they are satisfied on reasonable grounds that the activity or behaviour carried out, or likely to be carried out, in a public space:
- Has had, or is likely to have, a detrimental effect on the quality of life of those in the locality
 - Is, or is likely to be, persistent or continuing in nature
 - Is, or is likely to be, unreasonable; and
 - Justifies the restrictions imposed
- 1.3 As with all the anti-social behaviour powers in the Act, the council should give due regard to issues of proportionality: is the restriction proposed proportionate to the specific harm or nuisance that is being caused? Councils should ensure that the restrictions being introduced are reasonable and will prevent or reduce the detrimental effect continuing, occurring, or recurring. In addition, councils should ensure that the order is appropriately worded so that it targets the specific behaviour or activity that is causing nuisance or harm and thereby having a detrimental impact on others’ quality of life. Councils should also consider whether restrictions are required all year round or whether seasonal or time limited restrictions would meet the purpose.
- 1.4 Prior to the Act being introduced, a DPPO existed in Ashby to control the use of alcohol in public areas. Following the introduction of the Act, the DPPO automatically converted to a PSPO with the same provisions of the DPPO and continued in force for a maximum duration of up to 3 years (2020). Therefore, this proposal is a standalone consideration rather than a continuation of any existing order.

2.0 Proposed PSPO

- 2.1 This PSPO will place prohibitions on two activities across public spaces in Ashby town centre to include Hood Park and the Bath Grounds. These will be:
- Drinking/possession of alcohol
 - Use/possession of psychoactive substances.
- 2.2 The proposed order, along with a map of the restricted area, is attached as **Appendix 1**. Ashby Town Council, and the Neighbourhood Policing Team have been active partners in drafting, promoting, and progressing this proposal.
- 2.3 Alcohol related control

2.3.1 Section 63 of the Act specifically relates to consumption of alcohol in breach of a PSPO and applies when a police officer (or an authorised person*) reasonably believes that a person:

(a) is or has been consuming alcohol in breach of a prohibition in a public spaces order, or

(b) intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition.

2.3.2 If a police officer or authorised person reasonably believes the above, they can require a person to not to consume the alcohol or anything they reasonably believe to be alcohol; and or to surrender anything in their possession which is, or which the police officer or authorised person reasonably believes to be, alcohol or a container for alcohol.

2.3.3 The PSPO would not be applicable to licensed premises or any place where a Temporary Events Notice exists with alcohol provisions.

2.3.4 The order will not create an offence to drink or carry alcohol within the restricted area. However, a breach of the order would be committed if a person fails to hand over alcohol, or containers of alcohol, when requested to do so by a police officer.

2.4 Psychoactive Substances

2.4.1 New Psychoactive Substances (NPS), which are also often referred to as legal highs, are an increasing concern up and down the country. In Ashby, there is anecdotal evidence from the town council's grounds maintenance team of paraphernalia and detritus regularly being cleared in both parks within the restricted area. Commonly found items include the metallic capsules used for inhaling nitrous oxide.

2.4.2 The PSPO will allow a police officer, or authorised officer*, to request that a person within the restricted area surrenders any psychoactive substance, or any associated paraphernalia, to them for disposal. Failure to comply with the request, without reasonable excuse, will be a breach of the order.

3.0 Consultation

3.1 The public consultation for the PSPO was launched on 24th November 2021 and closed on 15th December 2021. This was promoted through local media and social media channels where participants were directed and invited to complete a survey on the web page of North West Leicestershire District Council. Ashby Town Council also promoted the consultation through their social media.

3.2 The consultation asked consultees for their views on anti-social behaviour within the restricted area and whether they would be supportive of the proposal. In total there were 114 responses to the consultation. A report showing the full results can be seen at **Appendix 2**. Comments that were left on the open questions, as well as comments taken from social media, are shown at **Appendix 3**. The key findings and headlines from the consultation are below:

- 77% of respondents reported that they had experienced anti-social behaviour in the previous 12 months. The highest type of ASB related to alcohol (67 respondents) followed by litter (56), youth related (52), drugs (45), fly-tipping (18), graffiti (8), other (7).
- 104 (91.23%) respondents were in favour of introducing the PSPO to include the alcohol prohibition.
- 107 (93.86%) of respondents were in favour of introducing the PSPO to include the Psychoactive Substances prohibition.
- The Police and Crime Commissioner for Leicestershire was contacted on 16th December 2021 for comment. No response has been received.
- The Chief Officer of Police for Leicestershire Constabulary, Simon Cole, was contacted on 22nd December 2021. Inspector Richard Muldoon, Neighbourhood Policing Commander for North West Leicestershire responded as his delegate and cognisant on 22nd expressing his support for introducing the order.
- Vince Mott, representing The Friends of Bath Grounds, responded on 19th December 2021 and expressed their support in introducing the order.
- The Ashby Street Pastors chose not to make a formal comment on the proposal as they wished to remain impartial.
- The Community Safety Manager at Leicestershire County Council, expressed support of the proposal providing that adequate support was considered when the order is being used as an enforcement tool against vulnerable young people. In the event that enforcement was taken against vulnerable young people, support would be made available through a referral to the North West Leicestershire Joint Action Group (JAG)
- Consultees were asked how safe they felt in the town centre at night. 42.66% of respondents scored themselves between 1 and 5 (10 being the score for feeling very safe).
- Statistics around public drinking and psychoactive substance use within the restricted area are limited due to how incidents are reported and recorded. As neither of the two proposed prohibitions are unlawful, we are reliant on a combination of intelligence reports as well as anecdotal information to support the proposal. Information and data collated is attached at **Appendix 4**.

4.0 Enforcement

- 4.1 The Act enables a police officer, or authorised officer*, to enforce the conditions of the PSPO. Both prohibitions contained within the order will be enforced in the same manner where an officer believes that there is a likelihood of nuisance being caused as a result of alcohol and/or psychoactive substances within the restricted area.
- 4.2 Where an officer believes that there is, or is likely to be, anti-social behaviour caused by a person within the restricted area then they will be entitled to request that items (alcohol / psychoactive substances, or any associated paraphernalia or container) are passed to them for confiscation and disposal. Failure to comply with this request (without reasonable excuse) would be a breach of the order.
- 4.3 Where a breach occurs, the officer would be permitted to offer the person who has committed the offence an opportunity to discharge any liability to a conviction by issuing a Fixed Penalty Notice (FPN). However, within North West Leicestershire, rather than the officer issuing the FPN, this responsibility would be passed to the Council to administer. The Council must be satisfied with the level of evidence the

enforcing officer provides prior to issuing any FPN as a prosecution should be brought if the FPN is not paid.

- 4.4 The FPN for breach of the PSPO is set at £100, however a discounted rate of £60 will apply if the payment is received by the Council within 10 days of issuing the FPN. Any person failing to pay the FPN after 14 days may be taken to court, and if found guilty shall be liable to a fine. The maximum fine for breaching the alcohol prohibition of the Order will not exceed Level 2 on the standard scale (currently £500). The maximum fine for breaching the psychoactive substances prohibition of the Order will not exceed Level 3 on the standard scale (currently £1,000).

Authorised Officers*

- 4.5 An authorised person means a person authorised by the local authority that made the order. For the purposes of this order, police officers and PCSO's would be the primary front-line officers in enforcing the PSPO with NWLDC administering the FPN's. There may be an opportunity further down the line for the Council to extend those who are listed as authorised officers who are afforded delegated authority to enforce the order.

Alternative Enforcement Options

- 4.6 The PSPO will offer the police an enforcement tool that is currently not available to them. There are alternative parts of legislation that may be used to combat typical behaviours of alcohol/psychoactive substance use in public areas, some of which are listed below.
- 4.7 People over the age of 18 can drink in a public area without restriction unless a PSPO is in place. Without a PSPO, police have powers to remove alcohol from under 18's in a public space (Confiscation of Alcohol (Young Persons) Act 1997).
- 4.8 Section 5 of the Public Order Act 1986 provides a person is guilty of an offence if they use threatening (or abusive) words or behaviour, or disorderly behaviour within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby.
- 4.9 Under section 87 of the Environmental Protection Act 1990 it is an offence to throw down, drop or otherwise litter in any place open to the air.

5.0 Financial Implications

- 5.1 The cost of introducing a PSPO would be minimal from the outset. Signage will be required where 21 locations have been identified although this may increase to no more than 30 signs being required.
- 5.2 It is not envisaged that any additional policing costs will be required. Costs to the council for administering the FPN's are forecast to be minimal with no extra budgetary or staffing resources required outside of current levels.
- 5.3 Legal costs may be incurred, as well as officer time, for preparing cases for prosecution and any associated costs when issuing proceedings. Where prosecutions are successfully carried out, an order for costs, where reasonable, would be requested against the guilty party.

5.4 Breaches of a PSPO may result in FPN being issued which will be an income source to the Council.

6.0 Recommendation

6.1 Having considered the evidence and responses from the police, the consultation and grounds maintenance staff, officers consider there are reasonable grounds to find that the activity (consumption of alcohol and/or NPS) carried out in the restricted area:

- Has had a detrimental effect on the quality of life of those in the locality
- Is persistent or continuing in nature
- Is unreasonable; and
- Justifies the restrictions imposed

Policies and other considerations, as appropriate	
Council Priorities:	Developing a clean and green district Our communities are safe, healthy and connected
Policy Considerations:	
Safeguarding:	No implications
Equalities/Diversity:	The impact of the order has taken into account compliance with the requirements of the public sector equality duty under the Equality Act 2010. We do not believe that the proposed PSPO will have a negative impact on groups with protected characteristics.
Customer Impact:	A PSPO would have a positive impact on visitors to the town centre and parks
Economic and Social Impact:	A PSPO would have a positive impact on levels of crime and disorder and ASB
Environment and Climate Change:	A PSPO would have a positive impact on the street scene
Consultation/Community Engagement:	Detailed within the body of the report
Risks:	As part of its Corporate Governance arrangements, the Council must ensure that Risk management is considered and satisfactorily covered in any report put before elected Members for a decision or action.
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