

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Portfolio Holder, Strategy, Governance and Transformation and Executive Manager People and Public Protection Manager

To: Cabinet - 8 November 2016

Author: Emily Holmes, Communities Manager

Subject: Review of the existing Designated Public Place Order in Spalding Town Centre

Purpose: To review the existing Designated Public Place Order in light of new tools and powers following the introduction of the Anti-Social Behaviour, Police and Crime Act 2014

Recommendations:

- 1) That Option 4 be recommended for adoption by the Cabinet, with all three elements encompassed into this recommendation:
 - a) Proceed with the immediate transfer of the existing DPPO to a PSPO with conditions to address alcohol consumption;
 - b) Conduct a thorough review of community concerns of street drinking along the Riverbank with a separate and new PSPO, and
 - c) Continue to consider other targeted interventions to address these concerns while this work is undertaken.
- 2) That enforcement options and mechanisms are reviewed to ensure that public expectations are met.

1.0 BACKGROUND

1.1 Process so far

- 1.1.1 On 26 April 2016, Phil Adams the Executive Public Protection Manager, presented a paper to the Policy Development Panel to inform the Panel members of the on-going consultation on the current DPPO in Spalding Town Centre.
- 1.1.2 This consultation has now been completed and this paper will allow members to consider whether the Council should introduce a Public Spaces Protection Order.
- 1.1.3 The Council has followed the guidance in regard to consultation, however if we were to extend our DPPO area shown in Appendix C, there would need to be further consultation including owners and occupiers of land affected.

1.2 The Legislation

- 1.2.1 The Anti-Social Behaviour, Crime and Policing Act 2014 commenced on 20 October 2014 and introduced the Public Spaces Protection Order. This order replaces the following powers:

- Designated Public Place Order (DPPO)
- Gating Order
- Dog Control Order

1.2.2 Public Spaces Protection Orders are made by the Council and are designed to make public spaces more welcome to the majority of law abiding people and communities and not simply to restrict access.

1.2.3 The Council may make an Order if they are satisfied, on reasonable grounds, that the following two conditions are met:

First condition

- Activities carried out in a public place in the local authority's area have a detrimental effect on the quality of life of those in the locality or
- It is likely that the activities will be carried out in a public place within the area that will have such an effect

Second condition

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

1.2.4 The Order identifies the public spaces affected as the 'restricted area' and can:

- Prohibit specific things from being done in the restricted area
- Require specific things to be done by persons carrying out specific activities in the area
- Or both

The only prohibitions or requirements that can be imposed are ones that are reasonable to impose in order to:

- Prevent the detrimental effect from occurring or recurring
- Reduce the detrimental effect or reduce the risk of its occurrence, recurrence or continuance

1.2.5 The legislation allows the Order to be framed in such a way that it does not necessarily apply in all circumstances. An Order can be worded in such a way that:

- It only applies at certain times of the day
- It only applies at specific time, such as when a festival is on
- It applies to all persons
- It only applies to persons in specified categories
- It only applies to all persons except those in specified categories

1.2.6 The Act states that 'necessary consultation' must be undertaken before a Public Spaces Protection Order is introduced. The Act defines this as:

- The Chief of Police for the restricted area
- Whatever community representatives the local authority thinks is appropriate

- As far as is practicable, the owner or occupier of the land

1.3 Consultation undertaken to date

1.3.1 In order that the Council can make a decision about whether to proceed to a Public Spaces Protection Order, officers have undertaken consultation and reviewed the existing DPPO. This consultation has included:

- The Chief Constable of Lincolnshire
- Lincolnshire Police and Crime Commissioner, (Alan Hardwick at the time of consultation).
- Spalding and District Area of Commerce
- Spalding Ward members
- Committee of the Licensing Authority
- Members of PDP

1.3.2 The purpose of the consultation was to ascertain and understand the types of complaints and issues that are being experienced in order to inform the Council's next steps.

1.3.3 Consultees were asked to comment upon the following behaviours that *could* be included in the Order:

- Public Nuisance – including begging, assertive or aggressive collection or soliciting for money on the street, cycling on the pavement
- Behaviours – including alcohol consumption, Intoxicated persons, Urinating and defecating, spitting
- Environmental issues – including littering, feeding pigeons, graffiti, flyposting
- Other options – including peddling, dog control, gating, footpath closures, obstructing the highway

1.3.4 Responses were received from:

- Chief Superintendent Shaun West, Lincolnshire Police
- Committee of the Licensing Authority
- Councillor Jack McLean, District Councillor for Spalding St John's Ward

1.3.5 The Policy Development Panel will consider the review of the existing DPPOs in Spalding Town Centre at its meeting on 1 November 2016. Any feedback will be provided verbally to the Cabinet.

1.4 Feedback received

1.4.1 The Members of the Committee of the Licensing Authority said that they wished to see the mapped area extended to include the Vista, Church and follow the river down to Springfields, and were pleased to see cycling on the pavement, chugging (charity begging) and dog control on the list. The Committee also suggested the following behaviours be included:

- Dog fouling
- Peddling
- Litter dropping (the Committee reported that drinkers had been seen to drop cans and bottles)

- Leaving food debris (the Committee felt that the Town Centre and Hall Place were places for people to gather and eat and food debris was left which could attract vermin)
- No feeding ducks (the Committee would like to see signs put up along the main stretch of the river through the town as it attracts vermin)

1.4.2 Councillor Jack McLean reported that:

- Residents had raised concerns about rough sleeping in some areas being an issue
- Drinking, ASB and littering is an issue for residents opposite the Riverside on both London Road and further out in the ward

1.4.3 Lincolnshire Police provided a comprehensive response which gave details about calls for services and issues raised with local officers:

Begging

A detailed search of the command and control system revealed one incident relating to begging in the previous 12 months. Anecdotal evidence does not suggest that begging is widespread, or a localised issue in Spalding. Local officers work closely with P3 Street Outreach, South Holland District Council and other agencies to deal with rough sleepers which reduces the frequency of individuals begging in the area.

Assertive or aggressive (commercial or charity) collection or soliciting for money in the street

There have been no reported incidents within Spalding or the wider South Holland area. PCSOs and the Community Beat Manager regularly patrol throughout the district and have had no sightings, dealings or reports of any such activity. The town centre team also work closely with Shopwatch and retailers and no such activity has been identified by their staff or customers.

Cycling on the pavement

Cycling on the pavement is a regular issue which is often raised as a point of concern by residents and business users. Some of the problem occurs as there is a lack of clarity about where some cycle paths start and end.

Alcohol consumption and Intoxicated persons

A review of the systems shows that, in the last year, in the NC27 beat area (which is slightly larger than the current DPPO area) there have been:

- 79 incidents of drunken behaviour
- 29 incidents of street drinking
- This equates to just over 2 per week

When these incidents were interrogated for further details, 33 related to intoxicated persons in the street, walking down roads or streets or asleep on benches and many of these do not have evidence of 'street drinking' connected to them. 36 of these incidents over the year were linked to the night time economy.

The PCSOs conducted a series of static patrols in one of the historic hotspot locations for street drinkers in June 2016. They patrolled for 15 minutes at a time, 3 times a day, at

varying times each day. Across one month only one street drinker was found on one occasion whereas there would previously have been large groups congregated at all times of the day and night. In comparison, in 13/14 there was an average of 71 interventions by officers on patrol in the first quarter and 86 in June 2013.

Further analysis of the reports of drunken behaviour and street drinking between April and July for the previous three years shows that the reports have reduced year on year:

- 2014 = 29
- 2015 = 18
- 2016 = 10

The reduction in both reports and interventions from patrols is an example of partnership working in the town centre to tackle the issue.

Urinating and defecating

Of the incidents detailed above, five of the drunken behaviour incidents refer to males urinating in a car park. This is not an issue that is raised as a concern with PCSOs regularly.

Littering

There are only two incidents of littering reported to the police in the past 12 months in the MC27 beat area and, in addition, there were only 12 incidents of littering reported in the whole of South Holland in the previous 12 months.

Feeding pigeons

This is not an issue known to the police.

Graffiti

There have been a couple of series of graffiti in the town centre but the local policing teams identified the offenders and dealt with them through the criminal justice system. It does not appear to be a continual problem or particularly prevalent in the town.

Flyposting

This is not an issue that is reported to the police or observed by local officers

Peddling

There are rarely any incidents of peddling brought to the attention of the police in Spalding. Those that are reported always have a valid peddler's certificate and are reminded of the requirements of this by officers.

Dog control

Dog related incidents reported to the police are usually dog bite incidents. These are, in the main, in residential or rural locations where dogs are loose on walks and would not fall into a proposed PSPO area. The number of incidents reported to the police would not support its inclusion in a PSPO.

Gating/Footpath closures

Whilst Gore Lane car park has historically been a hotspot location for street drinkers, street drinking has reduced dramatically. There may be some partnership working that could be done to improve the area but gating orders or footpath closures are not believed to be a feasible option.

Obstructing the highway

This is not a problem that officers in the area are aware of.

- 1.4.4 In addition to the completed consultation document based upon calls for service using both the Police Command and Control Computer system and information supplied by the Neighbourhood Policing team, the following information was provided by Chief Superintendent Shaun West;

“In summary, it is evidenced that the existing DPPO has had a significant amount of success in Spalding and that the alcohol related ASB has declined considerably. There still remains a perception of street drinking within the town that appears at odds with the reality. It must be considered whether the introduction of a PSPO, focussing on alcohol related issues, would have a negative impact on our community and feed into that perception. Equally, we must also consider how we manage perception as much as reality.

With careful consideration of how a PSPO would be branded, ensuring that the focus is as much around public safety as it is around challenging perceived alcohol-related issues, then we as an organisation would support our partners with the introduction of a PSPO for Spalding. As the officer in charge of the policing resources in South Holland, I would also expect South Holland District Council to support us in the enforcement of the PSPO – this would include the local authority officers using Community Protection Notices (CPNs), written warnings and administering the enforcement activity as per the agreed ASB, Crime and Policing Act 2014 partnership protocols for Lincolnshire.”

- 1.4.5 Please see Appendix A for the Lincolnshire Partnership Protocols referenced above.

2.0 OPTIONS

- 2.1 **Option 1 - Do nothing. This will mean that the existing Designated Public Place Order (DPPO) will remain in place until 20 October 2017. At this point it will automatically become a Public Spaces Protection Order (to address alcohol in public) without the need for any additional action on the part of the Council.**

2.1.1 Benefits of Option 1

- There will still be powers for the police and/or council to deal with those drinking in public and causing anti-social behaviour
- A full review of enforcement options, processes and procedures can take place in tandem with other enforcement review work before the PSPO is implemented
- The consultation undertaken supports the view that the public perception of the problems in the town centre relating to street drinking are disproportionate to the reality at this location. The introduction of a Public Spaces Protection Order before the natural transition period may heighten the community concern and public perception around alcohol consumption in the town centre.

2.1.2 Risks of Option 1

- Members of the public may feel that their ongoing concerns have been dismissed by the council and that no action has been taken

2.2 Option 2 – Proceed with the immediate transfer of the existing DPPO to a PSPO only.

2.2.1 Benefits of Option 2

- The Council will use the tools available to address public concern.

2.2.2 Risks of Option 2

- The information and evidence provided shows that there has been a reduction in both reports and interventions required through patrols. One of the conditions required for the introduction of a Public Spaces Protection Order is that the problems are of a persistent or continuing nature. Public perception may suggest that they are of a persistent or continuing nature which may highlight a lack of reporting.
- If a Public Spaces Protection Order were considered and/or introduced this would generate increased interest in the topic. This may have a detrimental effect on the way that the town is perceived by businesses, residents and visitors – both current and potential in the future.
- The introduction of a Public Spaces Protection Order may heighten the community concern and public perception around alcohol consumption in the town centre.
- By introducing a Public Spaces Protection Order the expectation of the public will be raised. If there is not an officer present to enforce any breach dissatisfaction may well be experienced by the public.
- It should be noted that a PSPO is not an outright ban on street drinking. It is not an offence to consume alcohol in a public place; the offence is failing to comply with an officer's request within a designated PSPO area.
- Enforcing a Public Spaces Protection Order brings with it some potential areas to address including:
 - The Council does not currently have any existing enforcement staff whose role would be able to enforce the Order
 - The police will be working to their own priorities and enforcing the Order may not be, at any point in time, their priority
 - There is an expectation from partners, the public and in the legislation that the Council will also be responsible for enforcement.

2.3 Option 3 – a) Leave the existing town centre Designated Public Place Order (DPPO) to remain in place until 20 October 2017 until it automatically becomes a Public Spaces Protection Order (to address alcohol in public) and b) conduct a thorough review of community concerns of street drinking or alcohol related concerns along the Riverbank raised through this consultation with a separate and new PSPO.

2.3.1 Benefits of Option 3

- The data for Spalding Town Centre has shown a reduction in incidents. Local concerns have been raised for the riverbank and through some of the consultation feedback which can be explored in more detail.

- To meet the requirements of the legislation, outlined in section 1.2 of this report, additional evidence gathering and consultation on this as an area of specific concern will be needed, rather than immediately extending the existing PSPO area.

2.3.2 Risks of Option 3

- Members of the public may feel that their ongoing concerns have been dismissed by the council and that no action has been taken

2.4 **Option 4 – a)** Proceed with the immediate transfer of the existing DPPO to a PSPO with conditions to address alcohol consumption, **b)** conduct a thorough review of community concerns of street drinking along the Riverbank with a separate and new PSPO and **c)** continue to consider other targeted interventions to address these concerns while this work is undertaken

2.4.1 Benefits of Option 4

- Responding to local concerns for the town centre and investigating further the issues raised by Members through the consultation.

2.4.2 Risks of Option 4

- The information and evidence provided shows that there has been a reduction in both reports and interventions required through patrols. One of the conditions required for the introduction of a Public Spaces Protection Order is that the problems are of a persistent or continuing nature. Public perception suggests that they are of a persistent or continuing nature which may highlight a lack of reporting.
- If a Public Spaces Protection Order were considered and/or introduced this would generate increase interest in the topic. This may have a detrimental effect on the way that the town is perceived by businesses, residents and visitors – both current and potential in the future.
- The introduction of a Public Spaces Protection Order may heighten the community concern and public perception around alcohol consumption in the town centre.
- By introducing a Public Spaces Protection Order the expectation of the public will be raised. If there is not an officer present to enforce any breach dissatisfaction may well be experienced by the public.
- It should be noted that a PSPO is not an outright ban on street drinking. It is not an offence to consume alcohol in a public place; the offence is failing to comply with an officer's request within a designated PSPO area.
- Enforcing a Public Spaces Protection Order brings with it some potential areas to address including:
 - The Council does not currently have any existing enforcement staff whose role would be able to enforce the Order
 - The police will be working to their own priorities and enforcing the Order may not be, at any point in time, their priority
 - There is an expectation from partners, the public and in the legislation that the Council will also be responsible for enforcement.

2.5 **Option 5 –** Extend the existing PSPO to include the wider riverbank area and to include a number of additional behaviours suggested during the consultation period. This would include;

- (i) No person shall spit saliva or any other product of the mouth on the ground without making an attempt to collect or eradicate the saliva or product
- (ii) No person shall within the restricted area urinate or defecate in the designated area
- (iii) No person shall deposit litter
- (iv) No person shall ingest, inhale, inject or smoke any substance which has the capacity to stimulate or depress the central nervous system. The prohibition does not apply where the substance is used for valid and demonstrable medicinal purposes, is given to an animal as a medicinal remedy, is a cigarette or vaporiser or is a food product regulated by food or health and safety regulation.
- (v) No person shall cycle on the pavement

2.5.1 **Benefits of Option 5**

- Members have suggested the inclusion of additional behaviours, based on their local knowledge of resident's concerns.

2.5.2 **Risks of Option 5**

- The full consultation requirements for these to be included have not been met at this stage as these as the additional geographical area needs defining and consulting upon
- At this stage, the information received through the consultation for these additional behaviours does not meet the two conditions outlined in 1.2
- By not meeting the legal requirements, there is a risk of legal challenge.

3.0 **REASONS FOR RECOMMENDATIONS**

- 3.1 The main concern that the PSPO would address is the consumption of alcohol. The number of calls for service, complaints and interventions has reduced. However, concerns continue to be raised by local residents. On balance, the following conditions help to address these while further consultation is taking place:

First condition

- Activities carried out in a public place in the local authority's area have a detrimental effect on the quality of life of those in the locality or
- It is likely that the activities will be carried out in a public place within the area that will have such an effect support continued action in the Spalding Town Centre area and a transition from a DPPO to a PSPO

Second condition

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

4.0 **EXPECTED BENEFITS**

- 4.1 Users of Spalding Town Centre will be clear on the behaviours expected of them.

4.2 Behaviours other than alcohol consumption can also be addressed in the most appropriate way.

5.0 **IMPLICATIONS**

5.1 **Constitution & Legal**

5.1.1 This paper has set out the legal framework for a Public Spaces Protection Order as set out in the Anti-Social Behaviour, Crime and Policing Act 2014.

5.1.2 Fixed Penalty Notices under s68 are delegated to certain officers, further review of appropriate delegations will need to be in place to support this enforcement initiative.

5.1.3 The wording of the PSPO will meet the requirements of the Anti-Social Behaviour, Crime and Policing Act 2014.

5.1.4 Consideration must also be given to the Equality Act when setting out restrictions or requirements.

5.2 **Corporate Priorities**

5.2.1 The recommendations in this report contribute to the following Council priorities:

- To develop safer, stronger, healthier and more independent communities whilst protecting the most vulnerable
- To have pride in South Holland by supporting the district and residents to develop and thrive

5.3 **Crime and Disorder**

5.3.1 Alcohol consumption in a public place continues to be a cause for concern for local residents and a PSPO will enable action to be taken where necessary. From a community safety and public perception it needs to be very clear to all residents that the PSPO states that 'No person shall drink alcohol in a public place' and that this is not an outright ban on street drinking. It is not an offence to consume alcohol in a public place; the offence is failing to comply with an officer's request within a designated PSPO area.

5.4 **Equality and Diversity / Human Rights**

5.4.1 The conditions in the PSPO will be applicable to all users of the town centre and do not adversely affect one group of people over another.

5.5 **Financial**

5.5.1 To proceed with the additional consultation required for a Public Spaces Protection Order would have financial implications in both officer time and media/publicity materials.

5.5.2 To proceed with the introduction of a Public Spaces Protection Order would have financial implications. Initially this would be the signage and publicity needed to make the public aware of the Order. This would be minimal and will be met from existing budget.

5.5.3 Enforcement costs would need to be considered if this is progressed beyond existing delegated officers.

5.5.4 There could be some legal costs associated with the serving of fixed penalty notices (FPN), as the offender has a right of appeal to the magistrates court, this includes all FPN served by the Police under this legislation.

5.6 **Health & Wellbeing**

5.6.1 The health and wellbeing of the individuals involved in the anti-social behaviour in the town centre will be considered in the working group and will be a key element of any action plan.

5.7 **Reputation**

5.7.1 There is a danger that the grossly disproportionate public perception about street drinking is reinforced by the introduction of the Order. The Council might consider that, to introduce a Public Spaces Protection Order without clear evidence of a persistent nature could be detrimental to the Council's reputation.

5.8 **Risk Management**

5.8.1 Public Perception – there is the potential that a review of the DPPO and change to PSPO will heighten community and media interest in this area and careful consideration to the communications plan is needed to not raise community concerns. The introduction of the PSPO is to give agencies a tool to use should we need it. This is based on issues in the past, even though in recent years there has been a significant reduction in incidents.

5.8.2 Legal Challenge – the Council needs to be satisfied that both the conditions are met for any implementation of a PSPO. On balance, for alcohol, these conditions are met. For any additional geographical areas or additional behaviours to be included in the PSPO, further consultation and evidence review would be needed.

5.8.3 To improve perceptions of Community Safety, the Council needs to address community concerns. Not taking any action at all could risk worsening perception of community safety.

5.9 **Safeguarding**

5.9.1 Those individuals who may be in breach of a PSPO may be 'vulnerable' with their own needs. Additional support as well as enforcement may be needed on some occasions.

5.10 **Staffing**

5.10.1 In committing to introduce a Public Spaces Protection Order, the Council is acknowledging the need for robust enforcement. The Council will need to consider enforcement for the PSPO which may have staffing implications in the future.

5.11 **Stakeholders / Consultation / Timescales**

5.11.1 The consultation undertaken has been covered earlier in this report.

5.11.2 For any geographical areas not covered by the existing DPPO or additional behaviours, further consultation will be required.

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 The current wards affected by this consultation process are Spalding Wygate, Spalding St Mary's, Spalding Castle, Spalding St Paul's and Spalding St John's.

7.0 **ACRONYMS**

7.1 PSPO – Public Spaces Protection Order
DPPO – Designated Public Place Order
FPN – Fixed Penalty Notices

Background papers:- None

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Key Decision: No

Exempt Decision: No

This report refers to a Discretionary Service

Appendices attached to this report:

Appendix A ASB, Crime and Policing Act 2014 partnership protocols for
Lincolnshire
Appendix B Draft Public Space Protection Order
Appendix C Existing DPPO Area