

Policy Development Committee 19 February 2018 Anti-Social Behaviour (ASB) related Public Spaces Protection Order (PSPO)

For Recommendation

Briefholder:

Cllr F Drake, Community Safety

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Statutory Authority:

Anti-social Behaviour Crime & Policing Act 2014

The Anti-social Behaviour Crime and Policing Act 2014 enables Local Authorities, following consultation with the public, to make local Public Spaces Protection Orders (PSPOs). A PSPO can be made if a Council is satisfied on reasonable grounds that activities carried out, or likely to be carried out, in a public place:

- i. have had or are likely to have a detrimental effect on the quality of life of persons in those areas;
- ii. is or is likely to be persistent and continuing in nature;
- iii. is or is likely to be unreasonable; and
- iv. justifies the restriction to be imposed.

Purpose of Report

1. To report on the consultation regarding a Public Spaces Protection Order (PSPO) for defined areas within the Borough of Weymouth and Portland, and to seek approval of a draft Order. The Order proposes controls on;
 - a. Alcohol related anti-social behaviour
 - b. Begging related anti-social behaviour
 - c. Feeding of gulls
 - d. Cycling restrictions

Recommendations

2. That the Policy Development Committee:
 - a. Approves the need for an Anti-Social Behaviour Public Spaces Protection Order

- b. Decides what provisions should be included in the Order
- c. Recommends the Order for consideration by Management Committee

Background and Reason Decision Needed

3. The Anti-Social Behaviour, Crime and Policing Act 2014 gained Royal Assent in April 2015. Powers to create PSPOs came into force in October 2014. As well as enabling local authorities to address a range of different issues, the Orders replace Designated Public Place Orders (DPPOs), Gating Orders and Dog Control Orders. Any existing DPPOs, Gating Orders and Dog Control Orders in force on 20 October 2017, automatically become PSPOs.
4. ASB PSPOs are intended to provide means of preventing individuals or groups committing anti-social behaviour in a public space where the behaviour is having, or likely to have, a detrimental effect on the quality of life of those in the locality; be persistent or continuing in nature; and be unreasonable. To protect public amenity use, for the protection of the public and to tackle anti-social behaviour and nuisance.
5. PSPOs create a framework that either replaces or updates existing public space restrictions such as alcohol Designated Public Place Orders (DPPOs) and Dog Control Orders and permits local authorities to introduce new regulations. The Council has a dog related PSPO already in place.
6. The power to make an Order rests with local authorities, in consultation with the police and other relevant bodies who may be affected.
7. A local authority can make a PSPO in respect of any public space within its administrative boundary. The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
8. A PSPO can be in force for any period up to three years maximum.
9. Appeals against a PSPO can be lodged by anyone who lives in, or regularly works in or visits the area in the High Court within six weeks of issue. Further appeal can be made when a PSPO is varied by the local authority.
10. When making a PSPO a local authority must have particular regard to the rights of freedom of expression and freedom of assembly set out in the European Convention on Human Rights and the Human Rights Act. A PSPO may be applied wherever there is material evidence of anti-social behaviour, for example, in reports to the Police, local authorities or partner agencies.
11. The restrictions and requirements included in a PSPO may be comprehensive or targeted on specific behaviours by particular groups and/or at specified times.
12. The PSPO can be enforced by a Police Officer, or other authorised/delegated officer.

13. A breach of the PSPO can be dealt with through the issuing of a Fixed Penalty Notice (FPN) of up to £100, or a level 3 fine, £1000, or a level 2 fine, £500, for alcohol consumption breaches of the order on prosecution. The FPN fine is set at £100 to be paid within 28 days, reduced to £75 if paid within 14 days. This is in line with other Dorset Authorities serving FPN's under the same, Anti-social Behaviour Crime and Policing Act 2014, legislation. (This was not a consultation question).
14. The Council will adopt a graduated approach to the issuing of FPN's in line with the Council's enforcement policy. This means that the first time anyone witnessed by an authorised/designated officer behaving in contravention of the order, they will be provided with advice and guidance regarding their conduct and future behaviour.
15. In establishing a PSPO, appropriate signage must be displayed in accordance with the requirements of the Act.
16. PSPOs are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area. They are designed to ensure that the public can use and enjoy public spaces and do not face incidents of anti-social behaviour. The following provisions are being looked at due to ongoing reports of anti-social behaviour in particular areas of Weymouth. An evidence base to support these proposals, included a 12 week public consultation which received 800 responses, with a high proportion supportive of measures to tackle ASB.

Alcohol-related proposal

Weymouth

17. The proposed PSPO will replace the Designated Public Place Order (DPPO) which covered areas of Weymouth and Portland, making it an offence to fail to comply with a request by an authorised person (for example a Police Officer), to cease drinking, or surrender alcohol in the designated area. It is proposed to continue this measure under the PSPO for these areas in Weymouth and Easton Square, Portland, and to expand the area covered to include; part of the Rodwell Trail, Hope Square, Melcombe Avenue, St John's Church and Grange Road in Weymouth. See Appendix C - Map 1. (The PSPO is not a "blanket" alcohol ban, but a measure to give some control over alcohol related anti-social behaviour).
18. Of those who responded 79% thought there was a very big or fairly big problem of alcohol related ASB in Weymouth Town Centre. 76% felt The Promenade had a very or fairly big problem. See Appendix A, page 3.
19. Out of the total 800 people who responded, 777 had been affected over the last twelve months by alcohol related ASB in Weymouth Town Centre, and 754 affected on The Promenade. 56% felt they were seriously or fairly affected by alcohol related ASB in The Town Centre, and 53% on The Promenade. 456 people stated how they had been affected. Of these, 266

mentioned the issue of people begging and drinking. See Appendix A, pages 4 & 5.

20. Of all the responses received 677 (87%) strongly agree/agree with the proposal to include a controlled alcohol zone in the PSPO in public spaces in Weymouth. (This would include parks, streets and other public places, but not public houses or licensed beer gardens or pavement cafes). 48 (6%) disagree/strongly disagree with the proposal. This gives a strong net agreement figure of +81. 275 people commented on the proposal. See Appendix A, page 6-8.

Portland (Easton Square)

21. In total 786 people responded to the proposal to include a controlled alcohol zone in Easton Square, Portland. 444 people (57%) strongly agree/agree and 29 (4%) disagree/strongly disagree. This gives a strong net agreement figure of +53. See Appendix A, page 9

- 22. Provision 1 - It is recommended the committee decides to retain the current alcohol restrictions in Easton Square, Portland, and to expand the existing areas covered in Weymouth, to include part of the Rodwell Trail, Hope Square, Melcombe Avenue, St John's Church and Grange Road in Weymouth (as outlined in Map 1). This would make it an offence for any person to fail to comply with a request by an authorised officer (eg; a Police Officer or authorised/designated officer), to cease drinking, or surrender alcohol in that area.**

Begging Proposal

23. The aim of the PSPO in this respect is to attempt to address the behaviours associated with begging that are having a detrimental impact on members of the community, as comments received in responses to the public consultation demonstrate.
24. This would be a tool to assist authorities to deal with persistent and problematic begging which is an ongoing problem for a number of agencies and the public. It is also hoped that this could also be a useful tool provide help and support to vulnerable members of the community as a way to engage with people associated with begging and be able to signpost them to agencies that could offer help and/or guidance.
25. If introduced as part of the PSPO, this measure would prohibit anyone from being able to make verbal, non-verbal or written requests for goods, money or donations, unless they are authorised at an appropriate location (for example authorised charity collections). See Appendix C – Map 2.
26. People were asked how much of a problem, if any, begging was to people living in, working in, or visiting Weymouth Town Centre and The Promenade. 75% felt begging in Weymouth Town Centre, to be a very big or fairly big problem, with 22% who felt it was not a big problem or not a problem at all. 65% said they were personally affected over the last 12 months, by people begging in Weymouth Town Centre. Whilst 32% said they were unaffected.

50% said begging to be a very big or fairly big problem on The Promenade, whilst 42% felt it was not a big problem or not a problem at all. See Appendix A, pages 11 & 12.

27. Out of the total 800 responses, 784 responded to the use of a PSPO to deter begging, in public spaces in Weymouth Town Centre (see Appendix 3 - map 2), with only 2% having no opinion. Of the total respondents 66 (77%) Strongly agree/Agree with the proposal and 84 (11%) disagree/strongly disagree. This gives a strong net agreement figure of +66. There were 302 additional comments on this proposal. See Appendix A, pages 13-15.
28. The Council's Community Safety team in conjunction with Dorset Police already issue Community Protection Notices (CPN's) and warnings to address begging in Weymouth Town Centre. Since May 2017, 9 Community Protection Notices (CNP's) have been issued for begging in Weymouth. Since being issued with a CPN, 4 of these people have not come to further Police notice for begging. Only 2 CPN's were breached, and these progressed to a Criminal Behaviour Order (CBO).

Support for vulnerable people

29. The Council recognises that poverty and homelessness can lead people to feel the need to beg. WPBC works in partnership with Dorset Police and a variety of partner agencies, and also works directly with such individuals to provide alternatives to this lifestyle. However, some individuals choose not to engage with the services offered and remain entrenched in street community life, engaging in behaviours that have a detrimental impact on the wider community.
30. WPBC have commissioned Julian House to provide a rough sleeper assertive outreach and engagement service in Dorset. This service provides clients who have multiple and complex needs with a range of services, including accommodation, person-centred support, training and employment support.
31. The Council is part of a rough sleepers multi agency group, led by Julian House, which meets once a month. The group discusses known street users in Weymouth and Portland, who are prioritised on their needs and vulnerability, before actions are developed to address their needs.
32. The Council will continue to seek solutions to homelessness and financial hardship. However, the council has to balance the rights and needs of all sectors of the community including local residents, businesses and those who visit Weymouth and Portland. It is not acceptable for people to feel intimidated and to lose business due to the behaviour of a minority of individuals.
33. People begging are likely to have a mix of complex needs; mental health problems, health issues, and alcohol or substance addiction. Drug and alcohol support services are offered and made available to all street users, however, not all choose to engage with such services. Some people found begging may be homeless and rough sleeping on the street, however, some people who beg, have accommodation and are in receipt of Government financial support (benefits).

34. Dorset Police have powers under the Vagrancy Act 1824, to address the offence of begging. However, this Act is outdated and cumbersome. As with any legal process, it is lengthy and expensive and the Crown Prosecution Service (CPS) is unlikely to progress this to Court.
35. There is a growing trend nationally for councils to take action against begging through the use of a PSPO, with councils looking to ban or restrict begging. Many of these PSPO's include bans on implicit or non-verbal requests for money, such as putting out a hat or just sitting in a public place (Southampton banned 'loitering for the purposes of begging'). Some councils have banned 'aggressive begging', but this is often not defined – or if defined, includes broad examples such as begging near a cash machine. Other Councils such as Poole have included such bans in their ASB PSPO. However, West Dorset District Council decided against introducing such an Order in Dorchester.
36. Should Councillors make the recommendation to include the provision for begging, the Council will be able to review this provision before the expiry of the Order to see if it will need to continue. An Equalities Impact Assessment has been carried out and is awaiting approval.
- 37. Proposal 2 - To agree to the prohibition of begging in the defined areas, as outlined in Map 2, thereby assisting the multi-agency approach to deal with persistent and problematic individuals associated with begging.**

Feeding of gulls proposal

38. The Council is considering bringing in measures to prohibit the feeding of gulls. Officers believe that the feeding of gulls in Weymouth are causing a public nuisance. Feeding gulls encourages them to return to the area, contributing to the problem. Under this measure, people will be prohibited from feeding gulls in Weymouth, including dropping or distributing bird feed unless authorised in defined area – see Appendix C - Map 3.
39. The question was asked how much of a problem, if any, is the feeding of gulls to people living in, working in or visiting Weymouth. 74% felt there was a very big or fairly big problem in Weymouth, whilst 22% felt it a minor problem or not a problem at all. 308 respondents felt the feeding of gulls was a very big problem. 782 people said the feeding of gulls had affected them over the last 12 months, when Weymouth. 58% felt they had been affected in some way. With one in five people feeling they were seriously affected. See Appendix C, pages 16-18.
40. People were asked to what extent did they agree or disagree with the use of a PSPO to control the feeding of gulls, as outlined, in public spaces in Weymouth. 781 people responded to this question. Over half of them strongly agreed with the proposal. A total of 80% strongly agreed/agreed with the proposal and only 6% disagreed/strongly disagreed. This gives a net agreement figure of +74.

41. **Proposal 3 - To introduce a measure under the PSPO to prohibit the feeding of gulls. Under this measure people will be prohibited from feeding gulls in Weymouth, including dropping or distributing bird feed unless authorised, in public spaces in Weymouth, (as outlined in Map 3).**

Cycling proposal

42. Cycling on Weymouth/Greenhill Promenade* is currently prohibited at all times throughout the year. The proposal is to continue the prohibition at times when it is likely to have a detrimental effect, which is when the promenade will be at its busiest with pedestrians. If introduced, this would mean cycling would be prohibited between 10:00 hours and 18:00 hours from the 1st May to the 30th September, annually. See Appendix C - Map 4.

** The area of Weymouth beach and promenade; between the Pavilion Theatre, at the junction of Custom House Quay, to the junction between the promenade and the start of Preston Beach Road adjacent to the rock groyne.*

43. People were asked to what extent did they agree or disagree with the use of a PSPO to permit cycling during specified times, as outlined along Weymouth Promenade. Out of the total 800 responses, 791 people responded to this proposal. 49% strongly agreed with the proposal and 15% strongly disagreed. A total of 66% strongly agreed/agreed with the proposal and 22% disagreed/strongly disagreed. This gives a net agreement figure of +44. Responses specifically from disabled people, 60% strongly agreed/agreed with the proposal and 34% disagreed/strongly disagreed including the Weymouth and Portland Access Group. See Appendix A – page 22.
44. 480 comments were received on this proposal, raising nearly 1,000 issues. 130 of the comments were from those who disagreed/strongly disagreed with the proposal, whilst 315 were from those who agreed/strongly agreed with the proposal. A summary of comments can be seen at Appendix A – page 23. Responses from cycling organisations can be seen at Appendix A, pages 24 & 25. Clarification in relation to comments from Dorset Cycling Network (DCN) can be found at Appendix D.
45. The majority of comments were in relation to creating a cycle lane along The Promenade:
- a. The DCC/ Parsons Brinkerhoff Weymouth Traffic and Movement Study 2016 investigates cycle lane options for the promenade which summarises: “Cycling on The Esplanade and in the pedestrianised streets of the town centre is currently prohibited. We suggest that shared use by pedestrians and cyclists is enabled in these areas. As detailed in TAL 9/93 has indicated that cyclists will respond to pedestrian density by modifying their speed, dismounting and taking other avoiding action where necessary. However shared use on some sections of The Esplanade in the busy summer holiday season is not a feasible solution as cycling would be impractical”.
 - b. Department for Transport research into shared spaces suggests that “cyclists have a high awareness of pedestrians in shared space and

tend to ride around them or give way. Cyclists were found to be more likely to avoid or give way to pedestrians than vice versa”. – *Source DfT Local Transport Note 1/11*

c. Other comments centred on:

- the suggestion of amending the dates to fall in line with other regulations (i.e. Dog restrictions - from Good Friday to September 30th inclusive) to avoid confusion and to encompass Easter and Half term school holidays.
- the fact that other resorts (Poole and Bournemouth) apply a restriction only during July and August.
- the need to ensure pedestrians have priority.
- the benefits to cyclist safety, healthy living and ease of commuting.
- the need to promote responsible cycling.

46. **Background and history.** It should be noted that there are recorded aspirations that the Council (Management Committee 3/6/08 and Full Council 24/7/08) “will endeavour to provide facilities for cycling between the Pavilion and the Sluice gates as a matter of great importance” Previous attempts have been unsuccessful due to the process of amending byelaws which would have lost certain controls over unauthorised traders, potentially leading to significant financial loss to the council. The current PSPO procedure would allow for this council recommendation to be delivered whilst retaining the aspects felt required to protect the authority’s financial position.

47. The Town Centre Masterplan includes objectives to:

- Reduce the dominance of traffic, reviewing car parking and providing better linkages for pedestrians and cyclists to key destinations.
- Improve the quality of the town centre walking and cycling environment and their links to residential areas.

48. Proposal 5 – To suspend the existing cycling Bylaw, and replace with a PSPO, which will prohibit cycling on the Promenade between 10:00 hours and 18:00 hours from the 1st May to the 30th September, annually. See Appendix C - Map 4.

Implications

Corporate Plan

49. This Order links in with the Corporate Plan namely; Empowering Thriving and Inclusive Communities and Improving Quality of Life. The Order is aimed to reduce ASB in the designated areas, contributing to a positive result in line

with the Corporate Plan. To ensure people feel safe in their neighbourhoods by working with the Police and other partners to maintain low levels of crime and anti-social behaviour.

50. Deliver modern, responsive planning and other frontline services that support growth and promote social health and well-being.

Financial

51. Some additional signage will need to be displayed at certain locations in the district in order to inform the public. The estimated cost of this is in the region of £4000.

Equalities

52. Work will take place to publicise the work of support services in relation to alcohol misuse and rough sleeping.

Environmental

53. The range of current and proposed initiatives are designed to enhance the environment for which the people of West Dorset live and work, but making the area a safer place, with less anti-social behaviour.

Economic Development

54. N/A

Risk Management (including Health & Safety)

55. N/A

Human Resources

56. There may be a resource requirement associated with the enforcement of these measures.

Consultation and Engagement

57. The proposal has been developed following a 12 week public consultation exercise, the results of which can be found at Appendix A. 800 overall responses were received. 83% of the respondents currently live in Weymouth and Portland. Results will be published on the council's website www.dorsetforyou.com

Appendices

- A – Public Consultation Response Report
- B – Draft Order
- C – Maps 1 – 4
- D – Dorset Cycling Network (DCN) clarification

Background Papers

- Anti-Social Behaviour, Crime and Policing Act 2014
- Anti-Social Behaviour, Crime and Policing Act 2014: Reform of Anti- Social Behaviour Powers, Home Office Statutory Guidance for Front Line Professionals, updated December 2017
- WPBC Corporate Plan 2016-2019

Footnote

Issues relating to financial, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

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