

Cabinet

6 April 2021

Extension of Anti-Social Behaviour (ASB) related Public Spaces Protection Orders (PSPO's)

For Decision

Portfolio Holder: Cllr J Haynes, Customer and Community Services

Local Councillor(s): Relevant to all Dorset Council Members

Executive Director: John Sellgren, Executive Director of Place

Report Author: John Newcombe
Title: Service Manager Licensing & Community Safety
Tel: 01305 838027
Email: john.newcombe@dorsetcouncil.gov.uk

Report Status: Public

Recommendations:

- 1) To approve the extension of the West Dorset and Weymouth & Portland Anti-Social Behaviour (ASB) related Public Spaces Protection Orders (PSPO's) to 22 April 2022 and 19 August 2022 respectively.

Reasons for Recommendations:

- 1) To comply with legislative requirements,
- 2) To ensure openness and transparency in the Council's decision making, and to ensure that those persons affected by ASB continue to be afforded the protection provided by the Orders.

1. Executive Summary

The existing ASB-related Public Spaces Protection Orders (PSPO's) for West Dorset (covering Dorchester, Bridport, West Bay and Lyme Regis) are due to expire on 22 April 2021 and the Weymouth & Portland PSPO is due to expire on 19 Aug 2021. A 12 month extension to the orders is being sought to enable appropriate consultation and development of new Order(s) to effectively address ASB in the Dorset Council area. The extension proposal has the support of the Police and relevant Town Councils.

2. Financial Implications

The cost of enforcing the Orders that are proposed to be extended will be met from within existing budget provision. The funding for the preparation and consultation of the new PSPO's will come from existing budget and there are no further financial implications arising from the recommendations of this report.

3. Well-being and Health Implications

Certain types of ASB can have a significant effect on mental health. The Orders seek to reduce ASB and are a positive contribution to well-being.

4. Climate implications

There are no implications arising from the recommendations contained within this report in terms of meeting the Council's climate change obligations.

5. Other Implications

There are no other implications arising from the recommendations contained within this report in terms of impacts on other service areas within the Council.

6. Risk Assessment

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low – however, not having valid PSPO's in place will have an impact on the Council and Dorset Police's ability to deal with Anti-Social Behaviour which may have a detrimental effect on residents and businesses within the Dorset Council area.

7. Equalities Impact Assessment

An Equalities Impact Assessment has not been prepared as the recommendation seeks to extend provisions already in effect. However, an EIA will be completed as part of the full review of the PSPO's.

8. Appendices

Appendix A – The Weymouth & Portland Anti-social Behaviour Related Public Spaces Protection Order 2018

Appendix B – The West Dorset Anti-social Behaviour Related Public Spaces Protection Order 2018

Appendix C – Cornerstone Barristers - Banning begging in injunctions and PSPO's K Bhogal Feb 2021

9. Background Papers

Sections 59 to 75 of the Anti-social Behaviour, Crime and Policing Act 2014.
The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014.
Home Office – Anti-social Behaviour, Crime and Policing Act2104: Anti-social behaviour powers Statutory Guidance Jan 2021

10. Background

- 10.1 Public Spaces Protection Orders (PSPO's) were introduced in Sections 59 to 75 of the Anti-social Behaviour, Crime and Policing Act 2014. PSPO's are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are intended to help ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
- 10.2 PSPOs are made by the Local Authority for the area and subject to a legal test that focusses 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 concerned, 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.
- 10.3 Breach of the PSPO is a criminal offence discharged by a Fixed Penalty Notice (FPN) of £100 or prosecution in the Magistrates Court. Persistent offenders may have a Criminal Behaviour Order (CBO) attached to a guilty verdict in court. PSPO's are not intended to tackle youth nuisance as FPN's cannot be issued to persons under the age of 18.
- 10.4 In accordance with s.60 of the Act, a PSPO cannot have effect for more than 3 years, unless extended under s.60(2). This section permits a local authority to extend a PSPO where it is satisfied on reasonable grounds that doing so is necessary to prevent an occurrence or recurrence of the activities identified in the Order.
- 10.5 The Community Safety Partnership (partners) considers that the current PSPO's have been an effective deterrent to ASB issues since they were introduced in 2018.

11. Current Orders

- 11.1 West Dorset District Council introduced a PSPO covering four areas on 23 April 2018. This PSPO is due to end on 22 April 2021. The PSPO was introduced after wide consultation with residents, partners and Councillors. The Order is known as the West Dorset Anti-social Behaviour Related Public Spaces Protection Order 2018. This Order covers the towns of Bridport, West Bay, Lyme Regis and Dorchester.
- 11.2 The West Dorset PSPO covers the consumption of alcohol in Dorchester, Bridport and West Bay and the intentional feeding of gulls in West Bay and Lyme Regis and is attached at Appendix A.
- 11.3 Dorset Councils Partnership introduced a PSPO on 20 August 2018. This Order is due to end on 19 August 2021. The PSPO was introduced after wide consultation with residents, partners and Councillors. The Order is known as the Weymouth and Portland Anti-social Behaviour Related Public Spaces Protection Order 2018. This Order covers the towns of Weymouth and Portland.
- 11.4 The Weymouth & Portland PSPO covers the consumption of alcohol, the intentional feeding of gulls, begging, cycling on the promenade and is attached at Appendix B.
- 11.5 East Dorset District Council allowed the Alcohol Consumption in Designated Public Places of the area of Wimborne Minster Order (No 1) 2004 to automatically lapse and become a PSPO on 20 October 2017. The Order expired on 19 October 2020. Consideration of extending the Order was given, however there was insufficient evidence of relevant ASB to support a need for extension of the Order at that time. However, as part of a future full review of the PSPO's, this area will be re-visited to ascertain if the situation has changed.

12. Order Extension and Consultation

- 12.1. An extension to the existing Orders is being sought in order to enable a full review of ASB across the whole Dorset Council area. This work will take place during the next 12 months and will involve collation of supporting evidence from Dorset Police and other statutory partners as well as a full public consultation of the proposals. Unfortunately, due to pressures arising from the Covid 19 pandemic and preparing and implementing the new Dorset Council Licensing and Gambling policies has

meant that, although work has begun, it has not been possible to conduct a thorough review of the PSPO's in good time and prior to their expiry.

- 12.2 In deciding whether to extend the period for which a public spaces protection order has effect, the Council is required to consult with Dorset Police, Dorset Police & Crime Commissioner, relevant landowners and Town Councils.
- 12.3 The views of each of the statutory consultees have been sought and the overwhelming response has been in support of retention of the existing PSPO's whilst a full review is undertaken.
- 12.4 Various requests relating to additions and amendments have been received from the statutory consultees and it is the intention of the Council to consider all suggested amendments and additions and to conduct a full review of the available supporting evidence during the next 12 months in order to justify the proposed amendments and commence a full and thorough public consultation.

13. Legal Considerations

- 13.1 The European Court of Human Rights has recently issued a judgement which may cast doubt on the legality of Public Spaces Protection Orders and injunctions which seek to restrict begging. In its judgement in *Lăcătuș v. Switzerland* (19 January 2021) the European Court of Human Rights has found that a Swiss ban on begging violated human rights.
- 13.2 Whilst the PSPO does not carry the weight of an injunction and therefore would not involve a custodial sentence, it is still relevant to the extension of the Order and as a result of this recent ruling the Council proposes to only seek to enforce the begging provision of the PSPO where begging of an aggressive nature takes place, pending a full review the inclusion of the begging provision within the PSPO as part of the comprehensive review.
- 13.3 A summary of the ruling and its implications to the extension to the PSPOs is attached at Appendix C to this report.

14. Publication

- 14.1 Before making, varying, extending or discharging a PSPO, the council must carry out the necessary publicity and necessary notification in accordance with section 72(3) of the Anti-social Behaviour, Crime and Policing Act 2014 – this includes publishing the proposal for an extension on its website and the erection of suitable signage adjacent to the public place(s) to which the order relates.

15. Signage

- 15.1 Signs promoting the current PSPOs are currently in place in all the towns where PSPOs remain in force. Existing signage will need to be reviewed to ensure it is still compliant.

Footnote:

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

John Newcombe

Service Manager Licensing & Community Safety

23 March 2021