

Place and Resources Overview Committee

10 November 2021

Anti-social Behaviour related Public Spaces Protection Orders

For Decision

Portfolio Holder: Cllr L Miller, Customer and Community Services

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

Executive Director: John Sellgren, Executive Director of Place

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Report Status: Public

Recommendations:

- 1) To consider proposals for Anti-social Behaviour related Public Spaces Protection Orders for parts of the Dorset Council area.
- 2) To support that the draft Orders are published for public consultation the results from which will help shape the final Orders.

Reasons for Recommendations:

- 1) To comply with legislative requirements,
- 2) To ensure openness and transparency in the Council's decision making and
- 3) To ensure that those persons affected by anti-social behaviour are afforded the protection provided by such Orders.

1. Executive Summary

The existing Anti-social Behaviour (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 2022 and the Weymouth & Portland PSPO is due to expire on 19 Aug 2022. Officers have reviewed the existing Orders in consultation with statutory consultees and have prepared revised draft Orders for consideration by your Committee prior to launching a public consultation.

2. Financial Implications

The funding for the preparation and consultation of the new PSPO's will come from existing budgets and there are no further financial implications arising from the recommendations of this report at this stage. Should the draft Orders be approved, there may be cost implications in relation to enforcement of the additional areas and signage. Details will be provided at the appropriate stage.

3. Health and Well-being 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 community and individual 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

A draft Equalities Impact Assessment is being prepared by officers and will be completed as part of the consultation process.

8. Appendices – please click on the links below to view the appendices in each section

[Existing PSPO's – Appendices A to D](#)

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

Appendix B – The West Dorset Anti-social Behaviour Related Public Spaces Protection Extension Order 2021.

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

Appendix D – The Weymouth & Portland Anti-social Behaviour Related Public Spaces Protection Extension Order 2021.

[Proposed PSPO's – Appendices E to J](#)

Appendix E – The Bridport Anti-social Behaviour Related Public Spaces Protection Order 2022 (Draft)

Appendix F – The Dorchester Anti-social Behaviour Related Public Spaces Protection Order 2022 (Draft)

Appendix G – The Lyme Regis Anti-social Behaviour Related Public Spaces Protection Order 2022 (Draft)

Appendix H – The Portland Anti-social Behaviour Related Public Spaces Protection Order 2022 (Draft)

Appendix I – The West Bay Anti-social Behaviour Related Public Spaces Protection Order 2022 (Draft)

Appendix J – The Weymouth Anti-social Behaviour Related Public Spaces Protection Order 2022 (Draft)

[Proposed PSPO's – Appendices K and L](#)

Appendix K – The Dorset Beaches Anti-social Behaviour Related Public Spaces Protection Order 2022 (Draft)

Appendix L – The Dorset Open Land Anti-social Behaviour Related Public Spaces Protection Order 2022 (Draft)

[Additional – Appendices M and N](#)

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

Appendix N – Supporting Data Report – ASB Community Safety 2020-21

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 Act 2014: Anti-social behaviour powers Statutory Guidance Jan 2021

Local Government Association – Public spaces protection orders; guidance for councils

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 dealt with 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. Existing Orders

- 11.1 West Dorset District Council approved a PSPO covering Bridport, Dorchester, Lyme Regis and West Bay on 23 April 2018. This PSPO was extended for a further year in 2021 and is due to expire on 22 April 2022. 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 as extended by the West Dorset Anti-social Behaviour Related Public Spaces Protection Extension Order 2021.

- 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. The extension Order is attached at Appendix B.
- 11.3 Weymouth & Portland Borough Council approved a PSPO covering Weymouth and Portland on 20 August 2018. This PSPO was extended for a further year in 2021 and is due to expire on 19 August 2022. 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 as extended by the Weymouth & Portland Anti-social Behaviour Related Public Spaces Protection Extension Order 2021.
- 11.4 The Weymouth & Portland PSPO covers the consumption of alcohol, the intentional feeding of gulls, begging and cycling on the promenade and is attached at Appendix C. The extension Order is attached at Appendix D.
- 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 20 October 2020. Consideration of extending the Order was given at that time however there was insufficient evidence of relevant ASB to support a need for extension of the Order and as a part of the current review, the available data was again insufficient to warrant an additional PSPO at this time.

12. Proposed Orders

- 12.1 The Bridport Anti-social Behaviour related Public Spaces Protection Order 2022 (Draft) retains the activities and areas identified within the existing West Dorset Anti-social Behaviour Related Public Spaces Protection Order 2018 (as extended) and includes an additional provision covering general Anti-social Behaviour and dispersal powers with an updated plan including additional areas as identified, including Jubilee Green, Community Orchard, St Mary's Church and Foundry Lane. The revisions have been made in consultation with Bridport Town Council and Dorset Police. The draft Order is attached at Appendix E.
- 12.2 The Dorchester Anti-social Behaviour related Public Spaces Protection Order 2022 (Draft) retains the activities and areas identified within the existing West Dorset Anti-social Behaviour Related Public Spaces

- Protection Order 2018 (as extended) and includes additional provisions covering the intentional feeding of gulls, general Anti-social Behaviour and dispersal powers with an updated plan. The revisions have been made in consultation with Dorchester Town Council and Dorset Police. The draft Order is attached at Appendix F.
- 12.3 The Lyme Regis Anti-social Behaviour related Public Spaces Protection Order 2022 (Draft) retains the activities and areas identified within the existing West Dorset Anti-social Behaviour Related Public Spaces Protection Order 2018 (as extended) and includes an additional provision covering consumption of alcohol, general Anti-social Behaviour and dispersal powers with a revised plan. The revisions have been made in consultation with Lyme Regis Town Council and Dorset Police. The draft Order is attached at Appendix G.
- 12.4 The Portland Anti-social Behaviour related Public Spaces Protection Order 2022 (Draft) retains the activities and areas identified within the existing Weymouth & Portland Anti-social Behaviour Related Public Spaces Protection Order 2018 (as extended) and includes general Anti-social Behaviour and dispersal powers with a revised plan. The revisions have been made in consultation with Portland Town Council and Dorset Police. The draft Order is attached at Appendix H.
- 12.5 The West Bay Anti-social Behaviour related Public Spaces Protection Order 2022 (Draft) retain the activities and areas identified within the existing West Dorset Anti-social Behaviour Related Public Spaces Protection Order 2018 (as extended) as well as an additional provision covering general Anti-social Behaviour and dispersal powers with an updated plan. The revisions have been made in consultation with Bridport Town Council and Dorset Police. The draft Order is attached at Appendix I.
- 12.6 The Weymouth Anti-social Behaviour related Public Spaces Protection Order 2022 (Draft) retains the activities and areas identified within the existing Weymouth & Portland Anti-social Behaviour Related Public Spaces Protection Order 2018 (as extended) with minor amendments to the Cycling provision and inclusion of additional areas within the Controlled Alcohol Zone as well as an additional provision covering general Anti-social Behaviour and dispersal powers with a revised plan.
- 12.7 There is also an additional provision for the installation of a pair of gates in Trinity Passage, Weymouth. Trinity Passage is a historic public footpath which runs parallel to the main public footpath along North Quay and Trinity Road. It dips below ground level and provides a route to access/egress Holy Trinity Church. It is believed that up until the Second World War, the passage was gated at either end to restrict access and that the gates were removed as part of the war effort.

- 12.8 Representatives of the church have complained of persistent ASB for a considerable period. Improvement has been made to street cleansing and lighting in the passage and the Community Safety Patrol Officers have this location on their patrol however, reports of ASB continue. Church representatives have asked if the gates can be reinstated.
- 12.9 PSPO's replace the previous 'gating order' provision available to councils to restrict access and if the relevant criteria are met, and subject to public consultation, access can be restricted. It is considered that there is sufficient incidence of ASB and that it is likely to continue unless the restriction is implemented. The installation of gates would require necessary permissions and funding arrangements to be in place. Dorset & Wiltshire Fire and Rescue Service has been consulted in relation to access and egress in emergency situations.
- 12.10 As well as members of the public, there are occupiers of nearby properties who may use Trinity Passage. The consultation will give an opportunity for them to make representation so that the council can decide whether to proceed.
- 12.11 The area has been blighted by anti-social behaviour issues arising from drug dealing, graffiti, sexual activity, rough sleeping, littering, fly tipping and public urination/defecation and is consequently having a detrimental effect on the use of Holy Trinity Church and on local residents. The revisions have been made in consultation with Weymouth Town Council and Dorset Police. The draft Order is attached at Appendix J.
- 12.12 The Dorset Beaches Anti-social Behaviour related Public Spaces Protection Order 2022 (Draft) is a new Order which is intended to tackle issues of Anti-social Behaviour arising from camping on beaches in several locations including Chesil Beach, Weymouth Beach and Lulworth.
- 12.13 The summer of 2020 saw a significant increase in the number of people camping on Dorset's beaches, which continued into the summer season of 2021. Supporting evidence is contained within Appendix N. The draft Order seeks to address the issues experienced over the last two summers which has given rise to a large increase in nuisance complaints, damage to property, accumulation of rubbish and human waste and destruction of natural habitat.
- 12.14 The additional Order has been prepared in consultation with the various land owners and town and parish councils affected including Lulworth Estates, Weymouth Town Council, Ilchester Estates and the National Trust. The draft Order would make it an offence to camp on designated land without the permission of the landowner and is attached at Appendix K.

- 12.15 The Dorset Open Land Anti-social Behaviour related Public Spaces Protection Order 2022 (Draft) is a new Order which is intended to tackle issues of Anti-social Behaviour arising from the starting of fires in grass, moorland and forest areas. Such fires can contribute to climate change and result in risk to life; damage to biodiversity, habitats and property; and loss of income from tourism and other land uses, and include provisions relating to placing, throwing or dropping items likely to cause a fire, lighting fires, barbeques (including disposable barbeques), Chinese lanterns or fireworks, or using items which either (i) cause a naked flame or (ii) pose a risk of fire.
- 12.16 There is evidence of fires being started by disposable BBQ's and campfires at Wareham and Puddletown forests and at similar other locations in the Dorset Council area, owned or leased by Forestry England.
- 12.17 Following the disastrous fire at Wareham Forest in May 2020 which was most likely to have been started inadvertently, councillors asked officers to investigate ways in which the Council could help prevent wildfires in such terrain. A report was brought to the Councils Cabinet on 6 April 2021, outlining a number of measures that could be taken and included investigating the use of a PSPO to restrict activities likely to lead to cause fires.
- 12.18 Research has identified a small number of other councils who have introduced similar provision following wildfires on open land and discussions with them have helped form opinion that this approach would benefit public safety and protection of our natural environment. Both Forestry England and Dorset & Wiltshire Fire and Rescue Service are supportive (see Appendix N).
- 12.19 Forestry England has asked for a number of areas in their control to be covered by the provision (see Appendix N). The evidence of issues at each location varies however, the similarity of terrain and level of public access are considered to be important factors when determining that the necessary criteria for a PSPO are met.
- 12.20 A concern has been how a PSPO would be enforced over such large areas. The Council will not be able to provide additional resource. It is recognised that the main benefit will be one of 'warn and inform' and Forestry England will provide signage at public access locations. This may include a 'reporting hotline' telephone number for concerned members of the public to contact a relevant agency. Also, it is possible that the Council will train and authorise some Forestry England wardens in a similar way to our joint work with town councils and their enforcement officers.

12.21 A PSPO provision is not the sole solution to this issue but it will be a measure which alongside others, will help to prevent wildfires and their devastating effect.

12.22 The draft Order covers areas of forest and heathland in various locations around Ferndown, St Leonards, West Moors, Wareham, Purbeck, Puddletown, Affpuddle and Moreton and is attached at Appendix L.

13. Consultation

13.1 In deciding whether to extend the period for which a Public Spaces Protection Order has effect, or where new Orders are to be considered the Council is required to consult with Dorset Police, Dorset Police & Crime Commissioner, relevant landowners, leaseholders and Town Councils.

13.2 The views of each of the statutory consultees have been sought and the proposals have been drafted with consideration of partner input.

13.3 It is proposed to conduct a full public consultation for a period of not less than 8 weeks commencing 18 November 2021.

13.4 All responses received as part of the consultation will be presented to the Place and Resources Overview Committee for consideration. The completed draft Orders may then be recommended to Cabinet for approval.

14. Legal Considerations

14.1 The European Court of Human Rights has recently issued a judgment which may cast doubt on the legality of Public Spaces Protection Orders and injunctions which seek to restrict begging. In its judgment in *Lăcătuș v. Switzerland* (19 January 2021) the European Court of Human Rights has found that a Swiss ban on begging violated human rights.

14.2 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 proposed 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.

14.3 A summary of the ruling and its implications to the extensions to the PSPO's is attached at Appendix M to this report.

15. Publication

15.1 Before making, varying, extending or discharging a PSPO, the council must carry out the necessary publicity and notification in accordance with section 72(3) of the Anti-social Behaviour, Crime and Policing Act 2014 – this

includes publishing the Orders on its website and the erection of suitable signage adjacent to the public place(s) to which the order relates.

16. Signage

- 16.1 Signs informing of the existing PSPOs are currently in place in all of the areas where current PSPOs are in force. Existing signage will need to be reviewed to ensure it is still compliant and new areas where Orders are to come into force will require additional signage.

17. Enforcement

- 17.1 In Weymouth and Portland there is a partnership agreement in place which funds a Community Safety Patrol Service. The service consists of four full-time Patrol Officers who are accredited by Dorset Police through the Community Safety Accreditation Scheme. The scheme is funded by Dorset Council, Weymouth Town Council, British Transport Police, Weymouth BID and Dorset Police & Crime Commissioner.
- 17.2 None of the other areas covered by existing PSPO's have similar enforcement arrangements and enforcement activity has generally been less. Where PSPO provisions have been enforced it has mainly been undertaken by Dorset Police or Town Council employees, where the Council has authorised competent officers.
- 17.3 If the new Orders are adopted, additional funding maybe required to enable authorised officers to enforce the provisions contained within the Orders. Officers are working with partners to identify where the Council may authorise partner employees to assist in enforcement. It should be noted that the Orders in themselves can have a deterrent effect when effectively publicised and signed.
- 17.4 An additional dispersal power has been added to all of the draft PSPO's which will enable the Police or Authorised Persons to require persons acting in an anti-social manner to leave the designated area.

18. Supporting Data

- 18.1 Supporting data is attached at Appendix N and includes data and intelligence relating to incidents of anti-social behaviour in the areas identified. Data has been provided by the Council, Dorset Police & Crime Commissioner's Office, Dorset Police and Forestry England.

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.