

CABINET

Agenda Item: 9

Ward: Cross-cutting

Portfolio: Community Health

Report Author(s): Judi Thompson

Meeting Date:
11 September 2017

SUBJECT: Public Space Protection Orders

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Report Sign off	Seen by:	Name	Date
	Chief Executive/ Deputy Chief Executive(s)	Donna Nolan	
	Legal	Lesley Dolan	29/08/17
	Finance	Paul Deal	25/08/17
	Group Manager	Claire Malcolmson	29/08/17
	Portfolio Holder	Nigel Taylor	20/08/17
	Ward Member(s)		
Summary:	<p>The purpose of this report is to seek approval that the Council will exercise its powers under the Public Space Protection Orders (PSPOs) within the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014, if satisfied on reasonable grounds, that the activities carried out below, or likely to be carried out, in a public space;</p> <ul style="list-style-type: none">• <i>Have had, or likely to have a detrimental effect on quality of life of those in the locality;</i>• <i>Is, or is likely, to be persistent or continuing in nature;</i>• <i>Is, or likely to be, unreasonable; and justifies the restrictions imposed.</i> <p>Therefore, the report seeks to support adoption of the Public Space Protection Orders (PSPOs) as based on findings from the consultation process with the view that following introduction will aid the Authority and Police to contribute to ensuring the district is a safe place to live, work and visit.</p>		

<p>Recommendation:</p>	<p>Cabinet is asked to:</p> <ol style="list-style-type: none"> 1. To note and consider the results of the feedback from the public and stakeholder consultation. 2. To consider the content of the Equality Impact Assessment as attached in Appendix A and consultation report from the Kennel Club and Dog Trust on animal welfare Appendix B. 3. To approve the making of a Public Space Protection Order for the whole of Mendip District in respect of; <ul style="list-style-type: none"> • Failure to remove dog faeces • Failure to put dog on a lead as directed by an authorised officer • Failure to stop consuming intoxicating substances when directed by an authorised officer (replace existing DPPOs) • Failure to surrender intoxicating substance when directed by an authorised officer (replace existing DPPO). 4. To approve the making of a Public Space Protection Order which relates to all council owned, under 5's, play areas namely; <ul style="list-style-type: none"> • Not to allow a dog within a play area for mainly under 5s 5. To approve the making of a Public Space Protection Order which relates to a specific areas with regard to environmental crime and disposal of any waste materials more colloquially known as "fly tipping". <ul style="list-style-type: none"> • Frome area relating to Berkley Lane, Dark Lane and Pot Lane only. 6. To evaluate the impact of introducing Public Space Protection Orders when reviewing consideration of extending or varying order. In this regard a further report will be brought back to Cabinet for consideration.
<p>Direct and/or indirect impact on service delivery to our customers and communities:</p>	<p>This work forms part of the 2017-18 Community Health business plan and will be reviewed every three years within plans.</p> <p>Once the Public Space Protection Orders are implemented it will enable the council and its partners to have authorised control, within the designated areas, over activities that are detrimental to quality of life and to ensure the law-abiding majority can use and enjoy public spaces, safe from particular nuisance and anti-social behaviour.</p>

<p>Contribution to Corporate Priorities:</p>	<p>This reports directly links to the previous corporate plan 2015-19 and one of the priorities to improve the health and wellbeing of the residents and Communities of Mendip and now links to the recently agreed corporate priority, T3, by enabling us to improve working with our full range of partners and integrate services focused on client groups to improve customers' experience and reduce duplication.</p>
<p>Legal Implications:</p>	<p>In order to implement the Public Space Protection Order the Council will have to comply with legislative requirements of the Anti-Social, Crime and Policing Act 2014 Act Part 4, Section 59 to legally formalise the Public Space Protection Orders and any associated guidance policies regards enforcement and appeal process.</p>
<p>Financial Implications:</p>	<p>The Public Space Protection Orders will incur a cost to formalise and legally seal the orders but the majority of the financial costs will be addressing signage for the required locations specified within the approved Public Space Protection Orders stating restrictions and offences.</p> <p><u>Signage</u> In areas where there is existing signage, for example the current Designated Place Protection Orders (DPPOs), they will be replaced with the new signage. Where new signage is required the costs will be mainly borne from existing budget within community safety but opportunities will be sought from other services that require signage to minimise costs and overload street signage. It may be that due consideration of the Orders are required to address language interpretation where necessary.</p> <p><u>Awareness training of Public Space Protection Orders</u> Key officers will need to be identified in accordance with the authorisation process for training and general awareness of the Public Space Protection Order and enforcement practices. This will be addressed through existing cross service working by existing staff resources and in partnership with the Police. The intention that this will become clearer within a forthcoming report regards enforcement and fixed penalty notices.</p> <p><u>Legal challenges</u> To note that in the event of appeals and /or judicial review which will be heard within the High Courts, costs may be incurred and may need to be addressed through existing legal service.</p>
<p>Impact on Service Plans:</p>	<p>The introduction of Public Space Protection Orders will support and enhance existing enforcement practices but will require cross service training and awareness raising of Public Space Protection Orders and procedures.</p> <p>To ensure that an evaluation process of the Public Space Protection orders are incorporated every three years within service plans.</p>

<p>Value for Money:</p>	<p>Public Space Protection Orders have the potential to reduce resources deployed by the council while creating opportunities for enhancing enforcement practices with regards to anti-social behaviour and environmental crime, and for the Police and other partners in tackling anti-social behaviour within the District.</p> <p>The new processes for introducing Public Space Protection Orders are simpler and less bureaucratic for example by having a lighter consultation without having to go through secretary of state for approval, thus enabling one order to impose a number of prohibitions may overall reduce the cost of officer time and lengthy consultation process to seek a swift response to Anti-Social Behaviour within the community.</p>
<p>Equalities Implications:</p>	<p>Equalities implications have been addressed in relation to introduction of Public Space Protection Orders;</p> <ul style="list-style-type: none"> • An Equalities Impact Assessment has been completed and attached in Appendix A. • To note the consultation response from Kennel Club and Dogs Trust on animal welfare in Appendix B.
<p>Risk Assessment and Adverse Impact on Corporate Actions:</p>	<p>Public Space Protection Orders fall within the Anti-Social Behaviour, Crime and Policing Act 2014, and so before implementation of any orders the local authority should be satisfied on reasonable grounds that two conditions are met as referred to in summary.</p> <p>Nationally, there has been a considerable amount of interest regards the introduction of Public Space Protection Orders mainly on infringement of human rights, animal welfare and whether they truly met the conditions required.</p> <p><u>Consultation</u> The risks mainly revolve around our duty to consult in particular marginalised groups and regards human rights and animal welfare, therefore, this risk is mitigated by our robust consultation and engagement process.</p> <p><u>Legal Risk</u> Legal challenge to the validity of the Public Space Protection Order process leading to reputation damage to the Council and potential court costs via the High Courts.</p> <p><u>To not introduce Public Space Protection Orders.</u> If the council does not exercise the power to introduce Public Space Protection Orders as Part 4 section 59 of the Anti-Social, Behaviour, Crime and Policing Act 2014 there is a risk to the council in discharging its statutory requirements, being detrimental to partnership working and negative public perception regards addressing anti-social behaviour within Mendip.</p>

Scrutiny Recommendation (if any)	N/A
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INTRODUCTION

In October 2014 the Anti-social Behaviour Crime and Policing Act 2014 came into force which provided a new range of tools and powers for the local authorities and the Police to tackle anti-social behaviour. This Act aims to introduce wider discretionary powers to address any particular nuisance or problem that is detrimental to the local community's quality of life. One of these powers within the Act, is the authority to create Public Space Protection Orders (PSPOs).

The purpose of these orders are:

- 1) to control and/or support the reduction of anti-social behaviour in public spaces, whether or not it is owned by the local authority, but is within the boundaries of the District, or,
- 2) Address a problem within a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area, which will apply to everyone.

They are designed to ensure the law abiding majority can use and enjoy public spaces, safe from antisocial behaviour. Mendip District Council can make a Public Space Protection Order if satisfied on reasonable grounds that the criteria within the summary of this report are met i.e.:

- ***Have had, or likely to have a detrimental effect on quality of life of those in the locality;***
- ***Is, or is likely, to be persistent or continuing in nature;***
- ***Is, or likely to be, unreasonable; and***
- ***Justifies the restrictions imposed.***

In order to satisfy itself that the above criteria are met local authorities are required under the legalisation to carry out a robust consultation exercise with partners, stakeholders and the public, seeking comments and evidential background to support any proposed Public Space Protection Orders and thereafter the making of formalisation of any Public Space Protection Orders as required under legalisation.

A Public Space Protection Order has a maximum term of 3 years and may be extended beyond this for a further 3 years where certain criteria are met. The proposed duration should reflect an appropriate and proportionate response to an issue. However, there are examples around the country where a shorter duration has been given to Public Space Protection Orders to address specific issues, where a 3 year order was not seen as necessary in the circumstances.

BACKGROUND

In January 2016 a report was presented to Cabinet seeking approval to review existing Designated Public Place Orders (DPPOs) with the view to replacing them with the new Public Space Protection Orders and to complete a statutory consultation in accordance with legalisation and guidance for the introduction of Public Space Protection Orders. Following the consultation process a further report was to be presented to Cabinet setting out proposals for introduction of Public Space Protection Orders within the Mendip District.

Although the recommendation was to review the existing Designated Public Place Orders this opportunity provided a platform to review and consult on other related anti-social behaviour issues that have become a burden on resources both for the authority and Police that have a detrimental impact on communities historically and presently.

Consultation

The first stage of the consultation commenced between June and August 2016 with the five town/parish councils and Police in order to raise awareness and seek consideration of implementing Public Space Protection Orders within their townships and as a district. Examples were provided as guidance which included the revision of the current Designated Public Place Orders and preferred options on location or as town blanket orders. During this period discussions took place within key service areas within the council mainly within Neighbourhood Services and Environmental Protection to formally raise awareness and to explore evidence based proposals for consideration to support the implementation of the proposed Public Space Protection Orders. Based on the findings from the first stage consultation process, a draft Public Space Protection Order proposal was drawn up to be considered for next stage of undertaking a public consultation process.

The second stage of the consultation on the draft Public Space Protection Proposal took place between July to August 2017 seeking public response along with town, parish councils, Police, Police Crime Commissioner, Chamber of Commerce, Kennel club and Dioceses of Bath and Wells and other key stakeholders. Press articles were placed within local newspapers and the Council's website hosted a public consultation survey supported with legislative background materials and an email address which was monitored daily in order to obtain census on proposals.

Details of findings from the consultation

Stage One

All of the five town councils responded and there was an overall consensus to adopt a town blanket cover for a Public Space Protection Order in relation to revision of existing Designated Public Place Orders currently in place, especially given that some are extremely out of date and most only cover identified streets. The introduction of a town blanket Public Space Protection Order would take in to account children's play areas, open spaces and churchyards.

The Police valued and welcomed the introduction of a blanket town Public Protection Space Order as this would enable Police officers to enforce and address displacement, in particular when events such as the carnival are taking place within towns and to tackle street drinking hotspots that are not presently covered.

In relation to dog control all five town councils supported no dogs within under 5s play areas and supported dogs on leads in designated areas, mainly high streets, with the exception of Frome town council who have implemented their own dog control orders within specified public parks and green spaces.

There was an overall census that issues such as begging and rough sleeping in the towns where considered not to be applicable for Public Space Protection orders as town

councils viewed this client group as vulnerable and should be treated with compassion and sign posted to supporting services such as the Elim Centre in Wells.

Stage Two

From the on line survey, there were 198 responses.

The considerations for introducing Public Space Protection Orders are contained within the recommendation section of this report. A copy of the full survey results and comments can be obtained from the Community Health Service.

There are some areas and issues within our communities that were raised within the consultation that require further investigation. It may warrant other enforcement solutions, for example there are other locations following displacement of fly tipping within Frome other than the specific area within the proposals. There are further considerations to note from the public in relation to tackling dog control, in particular dog fouling and the suggestion to have additional signage and installation of dog bins and to implement an education awareness campaign on responsible dog ownership, this was also highlighted within the responses from Kennel Club and Dogs Trust.

The main concern from the public is to ensure that there is a robust approach to enforcement of these proposed orders as, the public appears not to have confidence in the council to ensure effective enforcement. However, this is currently being addressed by seeking alternative options for gathering intelligence, working in partnership with Police, town councils and to review the delegation of powers to external partners. The intention is that a report will be tabled at a forthcoming cabinet meeting.

OPTIONS CONSIDERED

Given the existing Designated Public Protection Orders will expire Autumn 2017 and on the basis they should be renewed with Public Space Protection Order the council has some options;

Option A - do nothing, although not taking the required steps to review existing Designated Public Protection Orders and not exercising the authorities' power to use the Public Space Protection Orders will leave the Council and our Police partners limited powers to tackle anti-social behaviour within our communities.

Option B – do nothing, but all the existing Designated Protection Orders automatically transfer to a Public Space Protection Order. However, the council will be required to replace all existing signage and notify the public and Police of the changes and will not improve the complicated area maps where enforcement is allowable.

Option C - the recommended option, to undertake a review of the existing Designated Protection Orders relating to consumption of alcohol and replace with a Public Space Protection Order, conduct a statutory consultation with the public, Police and stakeholders to inform and then accept the findings and incorporate additional Public Space Protection Orders within Mendip.

RECOMMENDATIONS

Based on the results of the two stage consultation exercise the Cabinet is asked to;

- 1) To approve the making of a Public Space Protection Order for the whole of Mendip District in respect of;
 - Failure to remove dog faeces
 - Failure to put dog on a lead as directed by an authorised officer
 - Failure to stop consuming intoxicating substances when directed by an authorised officer (replace existing DPPOs)
 - Failure to surrender intoxicating substance when directed by an authorised officer (replace existing DPPO).
1. To approve the making of a Public Space Protection Order which relates to all council owned, under 5's, play areas namely;
 - Not to allow a dog within a play area for mainly under 5s
2. To approve the making of a Public Space Protection Order which relates to a specific areas with regard to environmental crime and disposal of any waste materials more colloquially known as "fly tipping".
 - Frome area relating to Berkley Lane, Dark Lane and Pot Lane only.
3. To evaluate the impact of introducing Public Space Protection Orders when reviewing consideration of extending or varying order. In this regard a further report will be brought back to Cabinet for consideration.

REASONS FOR RECOMMENDATIONS

To enable the council to implement Public Space Protection Orders within Mendip to try to improve the quality of life of visitors and residents and to ensure the law-abiding majority can use and enjoy public spaces, safe from particular nuisance and anti-social behaviour.

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List of background Papers (available from Community Health Service):

1. **Town and Parish Consultation 2016**
2. **Summary of all PSPO Consultations**
3. **Play Area Site List**
4. **PSPO Guidance for Councils**