

Title: Extension of current Public Space Protection Orders

Lead Officers: Liz Young, Community Safety Manager and Lorna Hudson,
Licensing and Regulatory Manager

Portfolio Holder: Councillor Judy Falp

Wards of the District directly affected: All

Approvals required	Date	Name
Portfolio Holder	08/02/23	Cllr Judy Falp
Finance	08/02/23	Andrew Rollins
Legal Services		
Chief Executive	08/02/23	Chris Elliott
Head of Service(s)	08/02/23	Marianne Rolfe
Section 151 Officer	08/02/23	
Monitoring Officer	08/02/23	Andy Jones
Leadership Co-ordination Group	08/02/23	
Final decision by this Committee or rec to another Cttee / Council?	Yes	
Contrary to Policy / Budget framework?	No	
Does this report contain exempt info/Confidential? If so, which paragraph(s)?	No	
Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?	No	
Accessibility Checked?	Yes/No	

Summary

The district's Public Space Protection Orders (PSPOs) expire October 2023. Before introducing, extending, varying, or discharging a PSPO, there are requirements under the ASB, Crime and Policing Act 2014 regarding consultation, publicity, and notification.

Due to the May Elections, there would be insufficient time to carry out the full review process, and necessary consultations, and have the renewed Orders in place by October 2023.

Recommendations

- (1) The Licensing & Regulatory Committee agree to the council seeking approval for consultation on extending the Orders, in their current form, unamended, for three years (in line with the legislation).
- (2) The Licensing & Regulatory Committee support the early start of the review of the renewed PSPOs in 2024.

1 Reasons for the Recommendations

- 1.1 Where PSPOs are varied, extended, or discharged, there are statutory requirements regarding publishing or publicising this and councils are required to undertake a consultation process.
- 1.2 For the extending or discharge of orders, the guidance states that any such proposals must be publicised only. In other words, there is not the requirement for the same extensive consultation as would be required for any new or varied Orders.
- 1.3 Local authorities are required to consult with key stakeholders: the local chief officer of police; the police and crime commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives. Any county councils (where the Order is being made by a district), parish or community councils that are in the proposed area covered by the PSPO must also be notified. 'Community representatives' are defined broadly in the Act as 'any individual or body appearing to the authority to represent the views of people who live in, work in or visit the restricted area'.
- 1.4 Over the last three years there have been, and continue to be, significant changes in terms of physical developments and change of land use across the district. Some areas are currently covered by PSPOs and there are plans in progress which potentially bring new areas under the scope of the current orders or may require the introduction of specific ones according to the nature and usage of the space.
- 1.5 Because of these major developments, the review of the PSPOs necessitates a full, detailed, and widespread public consultation, allowing appropriate consideration of all the issues, supported by a robust evidence base.
- 1.6 Due to the elections in May, this committee would be unable to meet before early summer to approve a public consultation for any proposals on extension, variation, or discharge of the Orders. The public consultation is required to take

at least six weeks, after which the outcomes would be evaluated for the drafting of final proposals, to be brought back to this committee in early Autumn for consideration. At which point there is a risk that agreement may not be reached.

- 1.7 The PSPO Guidance states *'There are no statutory requirements about the length of the consultation process. However, it should be ensured that its duration allows sufficient time to meaningfully engage with all those who may be impacted by the Order, taking into account for instance any holiday periods that may affect response rates – this may take several weeks or even months. Some issues may require time to fully explore and understand – councils should not be reluctant to extend the initial consultation period if it is clear that this would be beneficial in the longer-term.'*
- 1.8 The PSPO Officer Working Group (that was established for the last review in 2020) re-convened in October 2022. In drawing up the project plan and communications plan, they concluded that there would be insufficient time to carry out the full review process to meet the October 2023 deadline. They also concluded that further evidence gathering was required, in particular from the council and the police, to inform subsequent reviews and consultations on PSPOs. In addition to the identification of timeline issues, deferring the review to 2024 would allow time for gathering accurate data and developing a more robust evidence base to allow consultees a more informed choice.
- 1.9 Allowing the current PSPOs to lapse without extending them could result in a recurrence of the activities that are detrimental to the quality of life of people who live, visit or work in the district.
- 1.10 The PSPOs currently in place (renewed October 2020) are:
- **Intoxicating Substances (includes alcohol)** – this is a district wide order, making it an offence for a person 'without reasonable excuse' to breach the PSPO in terms of ingestion, inhalation, injection, smoking or otherwise use of an intoxicating substance.
 - **Dogs**– Warwick District Council already has 4 dog-related (PSPO) orders in place, which are summarised as follows:
 1. The Fouling of Land by Dogs (Warwick District Council) Order 2020
A person in charge of a dog must ensure they remove faeces deposited by their dog from any land to which the public have access and which is open to the air (including land which is covered but open to the air on at least one side).
 2. The Dogs on Leads (Warwick District Council) Order 2020
A person in charge of a dog must always keep a dog on a lead in the following areas:
Jephson Gardens, Royal Leamington Spa
Leamington Cemetery
Milverton Cemetery
Warwick Cemetery
Kenilworth Cemetery
The length of the public footpath (L9a) as it crosses Newbold Comyn Golf Course, Royal Leamington Spa
All other sport grounds, fields, and pitches not subject to the Dogs Exclusion (Warwick District Council) Order 2011, when in use for authorised sporting facilities.

3. The Dogs on Leads by Direction (Warwick District Council) Order 2020
If a dog is out of control and causing a nuisance, a person in charge of a dog must put and keep a dog on a lead when told to do so by an authorised officer.
4. The Dogs Exclusion (Warwick District Council) Order 2020
A person in charge of a dog must not take a dog on or off a lead into any of the following areas:
Any clearly demarcated children's play areas (PDF), paddling pool, bowling green, multi-use game area, tennis court, or putting green signed as a "dog exclusion zone" (whether the sign uses those particular words and/or symbols having like effect)
The main racetrack surface at Warwick Racecourse except when directly crossing the track either way at the designated public access points*
Mid-Warwickshire (Oakley Wood) Crematorium (excluding the car park areas when used to directly access Oakley Wood)

1.11 The proposed revised timetable for carrying out the review is set out below:

Action	Date	Detail
Officer Group Meetings	January - February 2024	Continue review of existing orders – assessing impacts/effectiveness. Consider evidence and data available. Discuss any issues that have arisen. Consider any potential variations. Consider possibility of new areas coming under Orders. Draft proposals for extension, variation, or discharge to recommend to committee for consultation
Development of Communications Plan	January 2024	Consultation planning Media management Risk mitigation
Report to Licensing & Regulatory	March 2024	Seeking approval to consult stakeholders/public on draft proposals
Carry out a 6-week stakeholder and wider public consultation	April – May 2024	In accordance with Communications Plan – online survey, focus groups/meetings
Officer Group Meetings	May - June 2024	Consider outcomes of consultation Agreement on final proposals to go back to committee
Report to Licensing & Regulatory	L&R committee date TBC – July 2024	Seeking approval on the final proposals for the renewed PSPOs
Implementation of Renewed PSPOs	August – October 2024	Notification to stakeholders/public in accordance with Communications Plan Updated and/or new signage installed

Subject to approval of the recommendations, a further report can be brought to this committee in July detailing the outcomes of the key stakeholder consultation and a finalised timetable for the review in 2024.

2 Alternative Options

- 2.1 The review could be carried out this year, however the process would have to be compressed and consultation time reduced to meet report deadlines and have renewed orders in place before they expire. It could be perceived by the public that the process is being rushed through, and responses to the consultation could be reduced due to it taking place during peak summer holidays.
- 2.2 The review goes ahead this year, however the Dog related PSPO for Newbold Comyn would have to be reviewed again in 2024 following the completion of the cycle trail development on part of the old golf course which would require another consultation and therefore additional resources.
- 2.3 Not to extend/renew: This option is not recommended for the reasons highlighted in 1.9.

3 Legal Implications

- 3.1 The Anti-social Behaviour, Crime and Policing Act 2014 introduced several tools and powers for use by councils and their partners to address anti-social behaviour (ASB) in their local areas.
- 3.2 PSPOs are one of the tools available under the 2014 Act. These are wide-ranging and flexible powers for local authorities, which recognise that councils are often best placed to identify the broad and cumulative impact that ASB can have. The Act gives councils the authority to draft and implement PSPOs in response to the particular issues affecting their communities, provided certain criteria and legal tests are met.

4 Financial

- 4.1 There are no costs associated with this report but new and/or amended signage would be required for any Public Space Protection Orders which would be funded from the appropriate Community Safety budget.

5 Health and Wellbeing

- 5.1 PSPOs 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.

6 Risk Assessment

- 6.1 Not having valid PSPOs in place will have an impact on the Police and Council officers' ability to enforce drinking and drug associated anti-social behaviours and dog-related nuisance across the district. This may have a detrimental effect on the reputation of the Council by:
 - People drinking alcohol and taking intoxicating substances and engaging in anti-social behaviours as a result.
 - An increase in dog fouling
 - Nuisance dog behaviours, including, but not limited to, the requirement to place a dog on a lead
 - Dogs entering children's play areas, sports areas and marked pitches during activities
- 6.2 If a full review was attempted this year, there is a risk that agreement may not be reached on the final proposals which could result in the Orders lapsing.

7 Analysis of the effects on Equality

- 7.1 The government guidance on PSPO states that the restrictions of a PSPO can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times. The PSPOs will apply to all individuals committing anti-social behaviour within the designated areas, without discrimination. No particular group should be disadvantaged through publicity or enforcement of the PSPOs. An Equality Impact Assessment will be conducted after any consultation.

8 Consultation

- 8.1 The PAB for Safer Communities, Leisure, and Environment, which met on 17 January, considered a verbal report proposing extension of the existing PSPOs for reasons cited in this report, and postponement of the review to early 2024.
- 8.2 They agreed that there was insufficient time to conduct a full and appropriate consultation due to the elections this year. Therefore, their advice was that the Orders be extended in October 2023 on the proviso that a review process would be conducted in 2024.

Background papers:

Licensing & Regulatory Committee Report – 8 July 2020 - Consultation on the revision and renewal of the district’s Public Space Protection Orders – Restricted Drinking Zones & Dog Control Orders

Supporting documents:

LGA Public Spaces Protection Orders – Guidance for Councils February 2018

Home Office Anti-Social Behaviour, Crime and Policing Act 2014: Anti-Social Behaviour Powers. Statutory Guidance for Frontline Professionals. Revised June 2022