



Regulatory Committee

12th September 2019

Subject: Public Space Protection Orders (PSPO) - Gainsborough Cemeteries

Report by:

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Purpose / Summary:

To provide Committee with the results of the consultation relating to the PSPO and to recommend a designation for the Gainsborough Cemeteries.

RECOMMENDATION(S):

Elected Members are asked to:

- a) Approve the making of a Public Space Protection Order for the Gainsborough Cemeteries as outlined in Appendix 2.
- b) Approve that this order will come into effect on Monday 14th October 2019 for a three year period.

IMPLICATIONS

Legal:

These Orders are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. The legislative consultation requirement has been met.

Power to make a PSPO is within the Terms of Reference of this Committee.

Breach of a PSPO may be dealt with by a fixed penalty notice or prosecution. Delegated powers are in place for service of fixed penalty notices.

Appeals against the making of a PSPO can be made in the High Court within 5 weeks of the PSPO being made, on the grounds that the process has not been followed, or that the Council did not have the authority to make the Order or put certain restrictions in the Order.

Financial : FIN/74/20

There will be a small amount of revenue funding required in relation to signage on the sites, for which there is provision within an existing budget.

Any income derived from Fixed Penalties is received directly by the Council.

Staffing :

The existing staffing resource is able to carry out duties that will ensure that any PSPO is effective.

Equality and Diversity including Human Rights :

The PSPOs will not disadvantage any social groups over another, and the process will be applied fairly. Exemptions for fixed penalty notices for reasons of physical or mental impairment are shown in the corporate enforcement policy.

The amendments made following on from the consultation also highlight how different groups have been considered and are aimed at ensuring that no one group is disadvantaged.

It is not believed that the restrictions will prohibit any specific group from accessing the cemetery.

Data Protection Implications :

Climate Related Risks and Opportunities:

Section 17 Crime and Disorder Considerations:

Health Implications:

Title and Location of any Background Papers used in the preparation of this report :

Risk Assessment :

Reputational: this risk relates to the Authority's ability to address the issues present, whilst at the same time acting fairly and equitably. The proposed approach will not negatively impact on any person who wishes to use the cemetery for its functional purpose.

Ability to enforce: resources are in place to enforce this PSPO and it is believed that this, along with enhanced signage will have a positive impact in addressing the issues.

1. Introduction

1.1. West Lindsey District Council held a consultation on a proposal to make a Public Space Protection Order.

1.2. These Orders can be made on any land open to the air that the public have a right or entitlement of access to. This means that the legislation can apply to land belonging to local authorities, as well as, for example, Church grounds and land belonging to a resident owned management company.

1.3. To make an Order, the local authority needs to be satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

- Have had, or are 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
- Justifies the restrictions imposed

1.4. In considering the determination of the proposed PSPO the Council have had regard relevant guidance including the revised statutory guidance, which can be found here

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/823316/2019-08-05_ASB_Revised_Statutory_Guidance_V2.2.pdf

2. Scope of the PSPO proposed

2.1. The proposed order within the consultation relates to land at Gainsborough General and North Warren Cemeteries. It is proposed that within the boundaries identified, dogs must be kept on leads at all times, the consumption of alcohol or possession of an open container of alcohol be prohibited along with the use of motor vehicles for recreational purposes.

2.2. The proposal to consult on this matter was considered and approved at the Regulatory Committee meeting held on Thursday 6th June 2019.

3. Consultation

3.1. Public consultation was held from 24th June 2019 to 5th August 2019. This exceeded the statutory minimum consultation period of 30 days and is in line with the Authority's standard consultation period of 6 weeks.

3.2. A Public Notice, as required in legislation, was placed in the local media on the 23rd June 2019.

- 3.3. The PSPO proposals have received coverage on various media channels including the television, radio and local written press. The item also featured as a discussion item on BBC Lincolnshire's morning breakfast radio show on the 24th of June. The consultation has also been widely publicised via the Authority's social media outlets.
- 3.4. Consultation documents, including the proposed order and the electronic consultation questionnaire were available on the website. Paper copies were made available at West Lindsey District Council's offices alongside a large number being provided to Gainsborough Town Council for distribution.
- 3.5. Statutory consultees were notified by direct email. These included the local Police Inspector and the Police and Crime Commissioner.
- 3.6. The Authority has also been advised of a petition organised locally in relation to the use of the Gainsborough General Cemetery. The petition is not included directly within the results that have been put to the Committee, however it has been recognised that over 500 signatures were gathered.

4. Consultation Outcome

- 4.1. There were 970 responses to the survey - the full version can be seen at Appendix 1.
- 4.2. The key findings from the consultation are as follows
- 89% of respondents would support a requirement for dogs to be kept on a lead within the cemeteries.
 - 36% of respondents would support the banning of dogs entirely from the cemeteries
 - 46% of respondents felt there should be a restriction to limit the number of dogs that can be walked by a person at any one time, with 2 cited as the highest scoring preferred maximum
 - 59% of respondents felt that there was sufficient open space within Gainsborough to exercise dogs. Over 50 different sites were listed within the responses.
 - 54% of respondents felt that Anti-Social Behaviour was a problem at the cemetery. A variety of topics were mentioned when detailing this.
 - Over 60% of respondents felt that alcohol and recreational use of motor vehicles should be banned.
- 4.3. Alongside the overall results, a large number of additional comments were received. The topics within these have been categorised in the table below and the number of comments relating to each identified in brackets:

Pro Dogs Linked to Mourning (63)
General (50)
Information on Other Locations (48)
Vehicles (34)
Responsible Dog Ownership (29)
Against Complete Dog Ban (28)
Pro Alcohol (18)
Complete Dog Ban (18)
Anti-Social Behaviour (ASB) (17)
Irrelevant (13)
Dog Fouling (6)

5. Considerations

- 5.1. In making its final proposals the Authority has considered the consultation results and attempted to ensure that the actual issues faced and identified can be addressed via the PSPO.
- 5.2. The original proposal in relation to keeping dogs on a lead is supported by the consultation results. It is also very clear from the consultation results that responsible dog ownership is something that the public feel strongly about. The consultation also identifies that there are numerous other sites within the area that can be used to exercise dogs.
- 5.3. There is a clear link within the comments to the role that dogs play in part of the grieving and mourning process and on that basis it is felt that an outright ban is unnecessary.
- 5.4. During the consultation period, officers have witnessed the recreational exercising of dogs within the cemetery area and have taken steps to address this with the individuals concerned. This issue does not appear to be isolated.
- 5.5. In relation to recreational use of motor vehicles, a number of comments were received in relation to mobility scooters. These scooters do not form part of this definition and therefore are not prohibited under a PSPO. The PSPO is aimed at vehicles such as mopeds, mini motorbikes and quadbikes.
- 5.6. The question on alcohol has also identified that many persons “raise a glass” to their loved ones whilst visiting the cemetery. For that reason it is proposed that the consumption of alcohol is not included within the PSPO as it is likely to be very difficult to enforce. It also does not appear to be reasonable to prohibit this type of activity in the context of the locations. If any person is drunk and disorderly within the sites there are existing powers held by the Police that can address this.
- 5.7. There were a number of other issues relating to ASB that were raised in regards to the cemeteries and other sites across Gainsborough. The

majority of these cannot be dealt with via a PSPO therefore it is not proposed to include any additional requirements within the proposal.

5.8. Issues relating to dog fouling and litter can already be dealt with under the existing fixed penalty powers that the Authority have.

6. Other Information

6.1. The Authority has requested that Gainsborough Town Council take steps to update all of their relevant signage within the cemetery areas to ensure that any visitors are reminded to behave in a respectful manner whilst within the area. This is essential in order to ensure the effectiveness of the PSPO.

6.2. Comments were received within the consultation regarding other sites within Gainsborough and the surrounding area, which suggest there may be similar issues that require addressing. These relate to dogs, alcohol and general anti-social behaviour.

6.3. At this stage, the Authority is proposing to review its approach to PSPOs relating to dogs and alcohol during 2020 in order to ensure they are fit for purpose. The existing PSPO relating to dog fouling expires in June 2020 therefore its review is timely and provides an opportunity to look at other issues that could be addressed via a PSPO within the District.

7. Final Proposals

7.1. The final order will propose that dogs are kept on leads within the site and that the recreational use of motor vehicles is prohibited.

7.2. It is proposed that the PSPO comes into effect on Monday 14th October 2019 for a three year period. This will allow sufficient time for internal preparations, signage to be produced and for the order to be publicised.

7.3. The full details of the final order is shown in Appendix 2.