



**Regulatory Committee**

**Thursday 9<sup>th</sup> June 2022**

**Subject: Gainsborough Cemeteries - Public Space Protection Order Review**

Report by:

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Purpose / Summary:

To propose that the current PSPO in place at the Gainsborough Cemeteries is discharged and seek approval for consultation on this matter.

**RECOMMENDATION(S):**

Committee are asked to:

- a) Approve that consultation is undertaken in regards to discharging the "Gainsborough Cemeteries PSPO".
- b) Approve that the consultation would take place for a period of 4 weeks, between Monday 4<sup>th</sup> July and Monday August 1<sup>st</sup> 2022.
- c) Approve that a further report be brought back to Regulatory Committee in September 2022, detailing the response to the consultation and to include a final proposal for the PSPO.

## IMPLICATIONS

### **Legal:**

Public Space Protection 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 the Regulatory 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.

At the point that it expires a PSPO can be discharged or extended subject to the necessary publication, consultation and communications taking place.

### **Financial : FIN/26/23/MT/SSC**

There will be a small amount of revenue funding required to publicise the proposal to discharge the order to consult upon this. This is estimated to be in the region of £500 and can be covered via the existing revenue budget.

### **Staffing :**

There is a requirement for staff to support the consultation process, this requirement can be met from the existing staff resource.

### **Equality and Diversity including Human Rights :**

The proposed removal of the PSPO is not deemed to disadvantage any social groups over another.

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

### **Data Protection Implications:**

None noted.

### **Climate Related Risks and Opportunities:**

None noted.

**Section 17 Crime and Disorder Considerations:**

The nature of the PSPO is aimed at addressing particular specific concerns. There is no evidence to suggest that crime and disorder is prevalent at this site, nor that the matters that sought to be addressed within the original PSPO are causing ongoing concern.

**Health Implications:**

Disruptive activity at a site such as a cemetery can cause distress and annoyance for any visitors to the site. This in turn could have a detrimental impact on a persons mental health.

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

Original Decision to approve PSPO: Regulatory Committee Minutes and Reports, 12<sup>th</sup> September 2019

<https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CId=262&MId=2358&Ver=4>

**Risk Assessment :**

**Call in and Urgency:**

**Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?**

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

**Yes**

**No**

**Key Decision:**

A matter which affects two or more wards, or has significant financial implications

**Yes**

**No**

## 1. Introduction

- 1.1. The Public Space Protection Order (PSPO) for Gainsborough Cemeteries has been in place since 2019 and is due to expire on 13th October 2022. Both sites are owned and managed by Gainsborough Town Council.
- 1.2. This paper seeks to provide information on the current situation regarding the PSPO and to propose that it be discharged (i.e. is not extended) when it comes to an end.

## 2. PSPOs

- 2.1. 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.
- 2.2. 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
- 2.3. A PSPO can be varied, extended or discharged and in order to do so, the same legislative tests of detrimental impact, proportionality and reasonableness need to be satisfied.
- 2.4. 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](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/823316/2019-08-05_ASB_Revised_Statutory_Guidance_V2.2.pdf)

## 3. Current Position

- 3.1. The existing PSPO (see appendix 1) seeks to address the following;

“That within the boundaries of Gainsborough General Cemetery and North Warren Cemetery outlined in red in Schedule 3, dogs must be kept on leads at all times and the use of motor vehicles for recreational purposes will be prohibited.”

3.2. The request for the PSPO to be put in place came via Gainsborough Town Council and at its inception, signage was placed across the site advising visitors to the area that the PSPO was in place.

3.3. As with all PSPOs the Council's approach has been to publicise the restrictions and then monitor the site initially. This approach is then scaled back based on the level of reports that are received. A pragmatic educational approach is taken in line with the Police 4 Es approach; Engage; Explain; Encourage; Enforce.

3.4. At the cemetery sites, there has been very little intervention needed from Council officers and there have not been any fixed penalty notices issued relating to either of the restrictions.

**3.5. The activities carried out relating to the PSPO are as follows:**

- 61 visits to monitor (averaging 30 minutes @ £15.64ph)
- 6 reports from the public
- 0 FPNs
- 1 warning letter (dog off lead)
- 7 persons given words of advice (dog off lead and asked to be put back on lead)
- 2 offences witnessed (dog off lead, offender left cemetery before action could be taken)
- 17 instances where dogs were witnessed being on leads
- 0 instances of offences relating to motor vehicles

#### **4. Proposed Way Forward**

4.1. Given that the level of issues relating to the site are not significant, it is proposed that a discharge of the PSPO is consulted upon. This would require the Council to publicise the decision and then seek the views of key stakeholders.

4.2. "The necessary consultation" would be undertaken. "The necessary consultation" means consulting with—

(a) the chief officer of police, and the local policing body, for the police area that includes the restricted area;

(b) whatever community representatives the local authority thinks it appropriate to consult;

(c) the owner or occupier of land within the restricted area;

4.3. The Police and Gainsborough Town Council would be contacted directly on the matter. The remaining consultation would be undertaken using an online survey (with paper copies where appropriate), which would be publicised accordingly.

4.4. The consultation would take place for a period of 4 weeks, between Monday 4<sup>th</sup> July and Monday August 1<sup>st</sup> 2022. The notice of the

proposed discharge and consultation would be placed on the Council's website.

4.5. Given that the proposal is to discharge the PSPO the survey will be minimal in its nature and ask respondents to simply state yes or no on whether they agree with the discharge. If a respondent selects "No" they will be asked to provide the reasons as to why.

## **5. Future Approach**

5.1. Whilst it is proposed that the PSPO be discharged. This does not mean that any future concerns cannot be addressed. There are measures that the Council and the Town Council could carry out to address any future concerns. These measures are listed below;

- Use of Community Protection Notices (CPNs) to address dog owners who are not in control of their dog.
- Additional signage in and around the areas regarding expected behaviours for dog owners and the general public
- Continued patrols of the sites by enforcement officers

**END**

