



Regulatory Committee

**Thursday 15th September
2022**

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

Report by:

Director – Change Management, ICT &
Regulatory Services

Contact Officer:

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Purpose / Summary:

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

RECOMMENDATION(S):

Regulatory Committee are asked to approve that the:

- a) "Gainsborough Cemeteries PSPO" is discharged and not renewed, when it expires on the 13th October 2022.

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/70/23/MT.SL

There will be a small amount of revenue funding required to publicise the discharge in the form of a public notice. This will be met from existing revenue budgets.

Staffing :

No further implications.

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 person's 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, 12th September 2019

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

Decision to consult on discharge of PSPO: Regulatory Committee Minutes and Reports, June 9th 2022.

<https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CId=262&MId=3182&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

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. Consultation

4.1. At its meeting in June 2022, the Regulatory Committee agreed to consult on the proposed discharge of the PSPO. This consultation took place for a period of 4 weeks, between Monday 4th July and Monday August 1st 2022.

4.2. The consultation results in full are shown in appendix 1. A summary is below:

- 14 persons completed the survey.
- 50% were in favour of the discharge, 50% were against.
- 8 additional comments were made about the proposals.
- 4 of the comments related directly to the PSPO. The remaining 4 related to matters outside of the scope of the PSPO.

4.3. Officers attended a meeting of the Town Council on Tuesday 12th July to discuss the PSPO. The minutes are not yet available for this meeting, however the key points from the meeting were as follows:

- The Town Council would like the PSPO to remain in place as they believe it acts as a good deterrent for what they see as a real issue for the cemeteries.
- The Town Council also recognise that the Council can use existing powers to deal with the issues should they be reported.

- Officers committed to meet with the Town Council to look at other “non PSPO” issues that were raised in relation to their land to consider whether any other areas should be considered for PSPOs in the future.

5. Summary

5.1. The consultation has not demonstrated that there is a need to continue the PSPO within the area and this is supported by the activities cited in 3.5, which outline how the Council has dealt with the issue since the PSPO was introduced.

5.2. A copy of the order required to discharge the PSPO is shown in appendix 2. Subject to committee agreement, this notice will then be signed and dated accordingly.

6. Future Approach

6.1. 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

