



**Licencing and Regulatory
Committee**

Date 26 January 2017

Subject: Public Space Protection Orders – authority to consult

Report by:

Mark Sturgess – Chief Operating Officer

Contact Officer:

Kathryn Hearn
Senior Community Safety Officer
01427 675181
Kathryn.hearn@west-lindsey.gov.uk

Purpose / Summary:

To outline proposals relating to three Public Space Protections Orders, and to gain consent from Committee to consult in line with the proposed consultation plan.

RECOMMENDATION(S):

Elected members are asked to:

- a) Give authority to consult on Proposal 1 – PSPO on Trinity Arts Centre Grounds**
- b) Give authority to consult on Proposal 2 – PSPO on land belonging to Gainsborough Town Council**
- c) Give authority to consult on Proposal 3 – District Wide PSPO for dog fouling**
- d) Approve the suggested consultation plan and timeline**

IMPLICATIONS

Legal: These Orders are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. A minimum 30 day consultation period is required by Legislation.

Power to make a PSPO has been added to 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 Ref:FIN/109/17

There will be costs associated with the consultation process, signage and publicity and resource costs. These should be relatively low and met from within existing budget provision.

Fixed penalty notices for breach of a PSPO are set at £75 with a £50 early payment incentive in fees and charges. Income from fixed penalty notices may be used to support the service issuing the FPN.

Staffing :

Staff time will be required to support the consultation process and reporting back to Committee. Staff time will be required to deal with breaches to support the PSPOs. It is intended that multi-skilling enforcement staff will enable this with minimal impact on individual officers by sharing the load.

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 detailed in the Fixed Penalty Enforcement Strategy.

Risk Assessment :

Challenge in the High Court – reduced by following process and considering reasonableness throughout process

Orders relating to dogs can be controversial and may lead to negative publicity. To be mitigated at consultation stage with careful publicity, reasoned grounds for suggested Orders and multiple options for responding provided.

Climate Related Risks and Opportunities :

Nil

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

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

x

Key Decision:

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

Yes

X

No

1 Introduction

West Lindsey District Council has been asked to consider making, or feels it needs to make, a number of Public Space Protection Orders (PSPOs) on land in the District.

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.

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

A PSPO can require something to happen e.g. requirement to keep dogs on a lead, or ban something from happening e.g. banning drinking alcohol in a public space.

A PSPO lasts for three years, after which it can be removed or extended. A PSPO can be removed or varied within the three year period if no longer needed.

Breach of a PSPO is a criminal offence, punishable by a fixed penalty notice or prosecution.

PSPOs, while a versatile and effective tool, have attracted some negativity nationally due to how they have been applied in some authority areas. It is therefore important to consider what activities the PSPO is aimed at stopping, whether those activities are deemed unreasonable, and whether the requirement or prohibition under the proposed PSPO is justifiable and enforceable.

The legislation requires that a minimum 30 days consultation is carried out prior to a decision being made to make a PSPO or not.

This paper is intended to outline the three current proposed PSPOs, the reasons behind the requests and the requirements or prohibitions suggested, and to ask the Committee to agree for consultation to take place.

Any Dog Control Orders currently in force in the District will remain in force and unchanged by these proposals, excepting those on Gainsborough Town Council owned land.

2 Legal advice

A number of queries were raised by Members at the previous committee meeting held on the 13th of December 2016 in regards to the enforcement and impact of PSPOs and the current legislation and officers were asked to clarify this via legal services prior to returning the paper for consideration. The queries and answers are contained below.

- Does the Dogs (Fouling of Land) Act 1996 designation still apply? (this required dog owners to pick up after their dogs across the District)
 - o No. The 1996 Act was repealed in full by the Clean Neighbourhoods and Environment Act 2005 Part 6, Chapter 1, and this itself was repealed by the Anti-Social Behaviour, Crime and Policing Act 2014 schedule 11. This means there is currently no provision for WLDC to enforce against uncleared dog fouling in the District.
- Will the introduction of PSPOs in the District impact on any current Dog Control Orders? (Dog Control Orders were made under the 2005 Act by Parishes/Towns on their land and cover dog exclusions, dogs on leads etc)
 - o Not unless the intention is to replace the Dog Control Order with a PSPO. In the three proposals as part of our paper, Gainsborough Town Council Dog Control Orders will be replaced by a PSPO. The Dog Control Orders in Caistor and Cherry Willingham will not be affected, and these will remain in force until 20 October 2017. We will review these orders prior to that date to ensure we can bring in PSPOs to replace them (if desired) before the current orders expire.
- Can Town/Parish wardens issue fixed penalty notices for breach of a PSPO?
 - o Yes, a re-read of the legislation and confirmation from legal services indicates that we can delegate powers to Parish and Town Wardens as we have done in the past. Officers will undertake to put these delegations in place and ensure that Wardens are trained and understand the new powers.

3 Proposal one – PSPO on Trinity Arts Centre grounds

3.1 Requirements/Prohibitions requested:

To prohibit dogs being brought on to the land designated in the Order. This prohibition will not apply to registered guide or medical alert dogs.

To prohibit the consumption of alcohol on the land designated in the Order.

3.2 Land PSPO to apply to:

The outside grounds of the Trinity Arts Centre, and the Pocket Park on Cleveland Street (map provided in Annex A)

3.3 Reason for application:

Frequent reports of groups gathering and drinking alcohol within the grounds of the Trinity Arts Centre and pocket park. Numerous visitors to the centre have commented on this and expressed concern for their safety as a result, as well as TAC staff and local residents. This has been on-going for some time and various options have been considered for dealing with this, however a resolution has not yet been found. There is a possible negative impact on the TAC as a venue if people do not feel safe attending, as well as local people feeling unsafe at home.

The grounds of the TAC are frequently used by local people for exercising their dogs. This has unfortunately had the effect of the grass being covered in dog foul. While we are looking to tackle the fouling issue itself under proposal one, in discussion with the centre manager a ban on dogs was considered the preferred option. In 2015 a community event on the grounds required several hours clean up prior due to the fouling, and this cannot be accepted on our land. In consultation it is proposed that a full ban on dogs, and a requirement to keep dogs on leads, are put forward as two options.

4 Proposal two – PSPO on Gainsborough Town Council land

4.1 Requirements/Prohibitions requested

On all areas of land that the PSPO applies to:

- Dogs must be kept on leads
- No alcohol may be drunk except as part of events organised by or with the permission of the Town Council
- No motor vehicles may be used for recreational use on the land. This includes motorbikes, mini motos, cars and quad bikes.

On the areas indicated in blue on the maps, described as designated childrens play areas, dogs will be excluded. Registered guide and medical alert dogs will be exempt from the exclusion.

4.2 Land PSPO to apply to

The PSPO will apply to numerous pieces of land in Gainsborough owned by the Town Council. Annex B shows the areas of land in map format.

4.3 Reason for application

Gainsborough Town Council have requested that a PSPO is put in place on its public land to replace current Dog Control Orders, and extend them to other areas of land, and to encompass wider nuisance behaviours. This is due to frequent problems in the past relating to dog fouling, uncontrolled dogs, use of alcohol, anti-social behaviour and off road vehicles on those areas, negatively impacting the majority of users of its land.

GTC have decided to request a dogs on leads order rather than the outright ban of dogs, except within childrens play areas. The ban would not apply to registered guide or medical alert dogs.

GTC have agreed to hold any required public meeting in relation to this proposal, and to be a point of contact during consultation.

5 Proposal three - District wide PSPO for dog fouling

5.1 Requirements/ Prohibitions requested:

To require dog fouling to be picked up by the owner/person responsible for the dog(s), on all land which is open to the air and to which the public have a right or entitlement of access whether paid or unpaid.

To require the dog foul picked up to be properly disposed of in a waste bin.

5.2 Land PSPO to apply to:

All land in the District of West Lindsey which is open to the air and to which the public have a right or entitlement of access whether paid or unpaid.

Exemptions: private property that the public do not have right or entitlement of access to, grass verges of roads with a speed limit above 40mph, woodland, heathland and agricultural land (as per the exemptions in the Dogs (Fouling of Land) Act 1996). Verges which have footpaths running alongside roads with a speed limit above 40mph would not be exempt.

5.3 Reason for application:

Uncleared dog fouling poses a health hazard, as well as making the streets unsightly. The Dogs (Fouling of Land) Act 1996, which has previously applied, can no longer be enforced. This PSPO will bring back an enforcement option for dog fouling, and will give a good opportunity for an educational publicity campaign in the local media, as well as a medium to long term enforcement option to help clear our communities up.

6 Consultation plan

Should approval be given for consulting the following is proposed:

- Consultation to open 1st February 2017, to close 3rd March 2017.
- Statutory consultees will be notified by email where possible, and in writing otherwise (statutory consultees include elected members, Parish and Town Councils, the Police and any other person directly affected by the proposal e.g. the Church diocese where the order affects their land)

- A Public Notice will be placed in local press
- A press release will be sent to local newspapers and publications, and placed on the website and social media prior to consultation opening
- Responses will be accepted in paper or electronic format. Paper forms will be available in reception.
- The Citizens Panel will be used if possible to increase reach
- Proposals 3 will return to Licencing and Regulatory Committee in March 2017. A report will be produced for giving a recommendation, for the Committee to make a decision.
- Proposals 1 and 2 will return either in March or June 2017 for a decision
- Delegation of powers to issue fixed penalty notices for breach of PSPO will be given to appropriate persons, which can include Town and Parish Council Wardens, to enable enforcement, following a review of necessary training and processes to support this
- Dog Control Orders in Caistor and Cherry Willingham will be reviewed after March 2017, in order to convert these to PSPOs (if desired) prior to their expiry on 20th October 2017.

6 Recommendations

Elected members are asked to:

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