



Regulatory Committee

Date 19 June 2017

Subject: Public Space Protection Order for Trinity Arts Centre land – recommendations following consultation

Report by:

Contact Officer:

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Purpose / Summary:

To present the results of public consultation on the proposed order, and make a recommendation to members

RECOMMENDATION(S):

Elected members are asked to:

- 1. Note the results of the public consultation**
- 2. Agree to make the Public Space Protection Order with an effective date of 24th July 2017**

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 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 publicity and resource costs involved in the making and enforcement of the PSPO. 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 Community Safety service.

Staffing :

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

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

Key Decision:

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

Yes

No

1 Introduction

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

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

2 Scope of the PSPO proposed

An order on the land at the Trinity Arts Centre including the pocket park on Cleveland Street to ban the consumption of alcohol in the outdoor space and to restrict access by dogs. This was considered following numerous complaints relating to this issue by staff at and visitors to the TAC, as well as local residents.

3 Consultation

Public consultation was held from 10th April 2017 to 15th May 2017. This exceeded the statutory minimum consultation period of 30 days, and met the standard council consultation period of 6 weeks.

A Public Notice, as required in legislation, was placed in the local media on Thursday 6th April 2017.

Articles on the consultation were placed in local newspapers covering Gainsborough, on social media and on the West Lindsey website.

Consultation documents were available on the website, including the proposed order and the electronic consultation questionnaire, and paper copies were made available in West Lindsey offices in Gainsborough, and the Trinity Arts Centre box office.

Statutory consultees were notified by direct email, including a link to the website consultation page. Those notified in this way were:

- Police and Crime Commissioner
- Local police Inspector

- Lincolnshire County Council highways
- Gainsborough Town Council
- Elected members of the Council

An email was sent to all addresses on the Trinity Arts Centre distribution list.

4 Outcome

78 responses were received.

46% of those responding had experienced anti-social behaviour in the vicinity of the TAC. 11% had not experienced anti-social behaviour but knew someone who had.

78% of respondents felt that use of alcohol in the vicinity of the TAC was a problem, and 85% agreed that the consumption of alcohol or possession of an open container of alcohol should be banned. 6% did not agree with a ban.

In relation to dogs, 37% felt that dogs should be banned from the grounds of the TAC and pocket park, with 58% feeling dogs should be allowed but should be kept on leads. 5% felt that there should be no restrictions on dogs.

The recommendation being made to Regulatory Committee is that the PSPO is made; that the drinking of alcohol or possession of an open container of alcohol within the land at Trinity Arts Centre and the pocket park be banned; that dogs be excluded from the land (except for guide dogs and medical alert dogs).

While the greater number of responses supported dogs being kept on leads, some of the comments referenced fear from loose dogs, and dog waste. An exclusion will tackle both of these issues, and is the preferred option of the TAC management.

It should be noted that drinking alcohol or having an open container of alcohol in the land will not constitute in itself a breach of the PSPO; the breach occurs when the drinker is asked to move on or hand over the alcohol by an authorised officer and does not comply. We have liaised with other Districts who have similar PSPOs and have established a proven enforcement route to ensure that other enforcement is in place to support the PSPO.

An authorised officer may include an officer of the local authority who has appropriate delegated powers, another person who has received training and being delegated powers by the local authority, the police or a PCSO.

The effective date of 24th July 2017 will be proposed to allow for publicity, internal preparations and local signage.

A copy of the final draft order is at Annex A.

4 Recommendation

Elected members are asked to:

- 1. Note the results of the public consultation**
- 2. Agree to make the Public Space Protection Order with an effective date of 24th July 2017**

Annex A

WEST LINDSEY DISTRICT COUNCIL

Anti-Social Behaviour, Crime and Policing Act 2014, section 59 Public Space Protection Order

This order may be cited as the West Lindsey District Council – Trinity Arts Centre Public Space Protection Order 2017.

West Lindsey District Council (“the Council”), being satisfied that the conditions set out in Section 59(2) of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) have been met in relation this order, namely that numerous complaints have been made regarding groups drinking, urinating and littering within the grounds of the Trinity Arts Centre, Gainsborough, and the Pocket Park on Cleveland Street, and that dogs are being exercised on the land causing problems with fouling. Accordingly, these activities have had a detrimental effect on the quality of life of those in the locality, or it is likely that those activities will be carried out in the area and have such an effect. The Council is also satisfied that the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, and these activities are unreasonable and justify the restrictions imposed by the notice, and that it is in all circumstances expedient to make this order for the purpose of reducing crime and/or anti-social behaviour in a public place.

The Council in exercise of its powers under Sections 59, 64 and 72 of the Act and under all other enabling powers, hereby makes the following order:

1. The consumption of alcohol is prohibited within the boundary of the Trinity Arts Centre, Gainsborough, and the Pocket Park, Cleveland Street, Gainsborough. Any person found with an open container of alcohol within the stated boundary will be required to leave the area or hand over the container to an authorised officer when challenged. Failure to do so will constitute a breach of the PSPO.
2. Dogs are prohibited from the land within the boundary of the Trinity Arts Centre, Gainsborough, and the Pocket Park, Cleveland Street, Gainsborough.
3. This order applies only to outdoor space
4. Exemptions are listed at Schedule 1
5. A map of the area is contained at Schedule 3

Schedule 1

1. Registered guide and medical alert dogs will be exempt from condition 2 of this Order.

Schedule 2

1. It is an offence for a person without reasonable excuse to fail to comply with this order.
2. A person found to be in breach of this order is liable on summary conviction to a maximum penalty of a level 3 fine or to a fixed penalty notice of £75.
3. An authorised officer will be an officer of the District council, or any other suitably trained person, to whom the council has delegated powers under this legislation to demand the surrender of alcohol and to issue fixed penalty notices. Warranted police officers and PCSOs in Lincolnshire are also authorised officers under this legislation.

Schedule 3 – area to be covered by the PSPO



The Order shall come in to operation on 24th July 2017 and shall have effect for a period of 3 years thereafter, unless extended by further orders under the Councils statutory powers.

If any interested person requests to question the validity of this order on the grounds that the Council did not have the power to make the order or that a requirement under the Act has not been complied with, then he or she may apply to the High Court within six weeks from the date in which the order is made.

GIVEN under the Common Seal of West Lindsey District Council on the
..... Day of 2017

The Common Seal of
West Lindsey District Council
was hereunto affixed
in the presence of

Authorised Officer