

Agenda Item

REPORT OF Public Health and Housing Manager

To: Full Council

Subject: Public Space Protection Order – Antisocial Behaviour and Street Drinking in Bideford.

Date: 28th April 2021

Reference:PSPO1

PURPOSE OF REPORT: To seek approval to designate a Public Space Protection Order in relation to Anti-Social Behaviour and Street Drinking Controls in a defined area of Bideford under section 59 of the Antisocial Behaviour, Crime and Policing Act 2014

1. INTRODUCTION

In June 2010 TDC introduced a Designated Public Places Order (DPPO) restricting the consumption of alcohol in specified areas of the Bideford. This was in response to issues of street drinking around the town and Quay. In 2018 this order was updated to a Public Space Protection Order (PSPO) through revised legislation: the Anti-Social Behaviour Crime and Policing Act 2014. PSPO's must be reviewed every 3 years therefore it has been necessary to revisit these provisions and assess whether they are still fit for purpose.

PSPO's are a legal tool that are used to stop individuals or groups committing antisocial behaviour or nuisance in a public space that is detrimental to the local community's quality of life. The test in implementing a PSPO must be that the behaviour being restricted has to:

- Be having, or be likely to have, a detrimental effect on the quality of life of those in the locality;
- Be persistent or continuing in nature; and
- Be unreasonable; and
- Justifies the restrictions imposed.

In implementing a PSPO, restrictions or requirements to address the antisocial behaviour must be set by the council. PSPO's can be enforced by a police officer, police community support officers and in certain situations, council enforcement officers. A breach of a PSPO is a criminal offence and can result in a fixed penalty notice of £100 on breach of an order. Alternatively, a fine of up to £1000 can be imposed by the court on conviction for the breach.

A PSPO can be appealed to the High Court by anyone who lives in, or regularly works or visits the area within six weeks of issue or variation of the Order.

2. REPORT

Background:

The process to implement a PSPO's is prescribed and must include a consultation process. This has consisted of the following:



1. Direct notification of the draft provisions and consultation document to the Bideford District and County Council members, Police and OPCC, Bideford Town Council, Bideford Chamber of Commerce & TTVS and One Atlantic Partners.
2. Publication of the draft provisions and consultation link on the TDC website and promotion through press releases and social media.

The consultation took place from the 3rd March to the 6th April 2021.

A copy of the provisions and coverage of the order are given in appendix 1 of this report.

Wording of the provisions consulted on:

The effect of the Order is to impose the following:

- a) Whilst in the Restricted Area a person commits an offence, if without reasonable excuse, he or she fails to comply with any of the following when requested to do so by an Authorised Officer, namely:
 - a. Cease the consumption of alcohol or substance reasonably believed by an Authorised Officer to be alcohol when requested; and/or.
 - b. Immediately surrender any containers (open or closed) in their possession containing alcohol or a substance reasonably believed by an Authorised Officer to be alcohol.

Note: Any surrendered items may be disposed of by the Authorised Officer in any way he or she deems appropriate. These provisions do not apply to alcohol being consumed within premises (including designated outdoor areas) that have obtained a license under the Licensing Act 2003 or other formally regulated location or activity.

- b) Whilst in the Restricted Area a person commits an offence, if without reasonable excuse, he or she does any of the following:
 - a. Fails to leave the Restricted Area forthwith and in an orderly manner when requested to do so by an Authorised Officer.
 - b. Re-enters the Restricted Area within 6 hours of being instructed to leave.

Note to 1 & 2 above: The Authorised Officer must be of the opinion that the individual is causing or has the potential to cause harassment, alarm or distress to other people in the area or is of the opinion that the individual is under the influence of an intoxicating substance.

- c. Urinates and/or defecates within the Restricted Area, other than within designated public toilets.
- d. Acts in such a manner that is reasonably perceived by the Authorising Officer to be anti-social, aggressive and / or intimidating to any member of the public.

Reasons for the wording of the order:

The above provisions seek to address a range of antisocial behaviours, not necessarily arising from street drinking. It is necessary that the provisions are clear, reasonable and enforceable. By making antisocial behaviour the key element in determining acceptability of the consumption of alcohol in the open air, we will not unduly penalise non antisocial alcohol consumption such as picnickers in the park or attendees at events in the town such as the



new year celebrations. An outright ban on drinking could be challenged on the grounds of it being overly draconian and could give the impression that street drinking is an extensive problem, with negative consequences for the town. Under a zero-tolerance approach, public expectations would be raised and police resources would be stretched to deal with any incidence of drinking in the specified area, even when no actual impacts are arising from the activity. The dispersal powers are a new tool included in our local provisions but have proved useful elsewhere.

It is therefore put forward that the wording of the order is a pragmatic and reasonable response to problem street drinking in Bideford.

Location description:

A plan of the proposed coverage of the PSPO is attached to this report and is a significant expansion on the area covered by the existing PSPO.

Response to the web consultation

A copy of the responses to the consultation is given as appendix 2 to this report.

Summary of responses

77 Responses received
43% have experienced persistent or continuous ASB
39% have experienced ASB associated with alcohol
19% have experienced aggression or intimidation
87% think the PSPO is justified
88% strongly agree or agree with the restrictions
79% agree with the suggested boundary
83% think PSPO will have a positive impact on those who live/work in Bideford
82% think there will be Positive impact for visitors
86% of respondents live and/or work in Bideford
46 have provided additional comments

Additional direct consultation responses

Two provided, both given in appendix 2.

Response from Emma Lefort Torridge Acting Sector Inspector, Devon & Cornwall Police

As the current Sector Inspector for Torridge, I would like to provide feedback on the draft Bideford Public Spaces Protection Order (PSPO) 2021.

I am wholeheartedly in favour of this proposal, which if implemented, will collectively enable Police and the Council to deal with Anti-Social Behaviour in a much wider area, as detailed in the associated map.

The current PSPO, has had limited value due to the small area it covers. Where anti-social or substance-related behaviour falls outside of the current prescribed area, accredited staff can often be left with limited powers to provide an effective resolution. The area covered in the proposed PSPO provide us with greater opportunity to keep the town safe and not simply move the problem 'down the road'.

The conditions are very clear and unambiguous and allow for the Council and Police to be able to issue sanctions if they are breached. I do not believe any of the proposed conditions



to be controversial, complicated or unachievable and in fact allow for previously excluded behaviour such as anti-social driving around the town to be covered.

In considering the size of the area proposed for the PSPO, I have been provided with relative data for the years 2019 and 2020. Over that 2-year period we had the following Police Logs in the proposed area:

2019:

- 30 logs relating to drinking
- 3 relating to Urinating
- 126 relating to Anti Social Behaviour
- **TOTAL: 167 logs**

2020:

- 52 relating to drinking
- 2 relating to urinating
- 108 relating to Anti-Social Behaviour.
- **TOTAL: 162 logs**

These numbers only relate to reports made to the police by the public. They do not detail incidents discovered by officers who patrol the area or behaviour that is witnessed by the CCTV operator. Local business owners or councillors also make reports directly to the neighbourhood team, often by email. I therefore believe the number of incidents to be a good deal higher.

It should also be noted, that over the last year, COVID-19 lockdowns have periodically been in place and therefore activity in the area has been less than it might usually be.

As such, I consider that extending the PSPO so widely is necessary. Bideford is a busy town with a thriving tourist industry. The incidents of anti-social behaviour or those relating to alcohol and other substances, has a considerable impact on members of the public being able to go about their daily business. Trying to police these issues through cooperation is not enough and therefore a legal framework is required.

I have one concern about an area not included as part of the PSPO on the proposed map. This is the grassed area and car park near to where the old skate park used to be, between the rugby ground and river. This is adjacent to a river boat café and other houseboats. Should the ASB be pushed into this area, this may still have an impact on both a local business and residents. So I would request that consideration is given to extending the PSPO area here.

Finally, with regard to the wording of the PSPO, I would request that it is changed to include the term 'intoxicating substances' as opposed to just alcohol. Whilst primarily, the complaints we have received have related to alcohol, I am mindful that trends change and in fact nearby boroughs have issues with substances such as gas/solvents or other psychoactive substances.

(Jan Williams responds: both of these final matters are covered later in this report)

Response from the Police and Crime Commissioner

Positive response given however this cannot be publicised under the current purdah restrictions. The comments have been shared with the Lead Member for Community Safety.

Consideration of the test for implementing a PSPO



1. *Be having, or be likely to have, a detrimental effect on the quality of life of those in the locality*

Police incidents show the extent of reports made to them within the designated area and the consultation response shows that the behaviour of individuals is already having a detrimental effect on residents, businesses and visitors to Bideford.

2. *Be persistent or continuing in nature*

162 incidents have been reported to police over 2020, and while this was a reduction from the 167 logs over the previous year, this encompassed a significant period of covid restrictions and lockdown. Consideration must also be given to those incidents that do not get reported but are still affecting our community.

3. *Be unreasonable*

Innocent members of our community witnessing or being subjected to groups of adults or juveniles who are under the influence of alcohol and other substances and are engaging in foul language and disorder whilst in public would be deemed unreasonable.

4. *Justifies the restrictions imposed.*

Taking into account the above factors, we propose that the provisions consulted upon meet the necessary test for implementing a PSPO, and put this forward to committee for approval with the following amendments following feedback from the police.

Proposed Amendments to the Order

The police have highlighted an issue with the map of the Restricted Area – namely the exclusion of the Bank End skate park area, including the grassed area adjacent to the houseboats. This was an oversight in the drafting of the map and it is recommended that the Restricted Area be modified to include this area.

The police have also requested that the wording of the order be modified to:

Whilst in the Restricted Area a person commits an offence, if without reasonable excuse, he or she fails to comply with any of the following when requested to do so by an Authorised Officer, namely:

- c. Cease the consumption of alcohol or *other intoxicating substance* or substance reasonably believed by an Authorised Officer to be alcohol or *other intoxicating substance* when requested; and/or.
- d. Immediately surrender any containers (open or closed) in their possession containing alcohol or a substance reasonably believed by an Authorised Officer to be alcohol, or *other intoxicating or suspected intoxicating substance*.

These modifications would still meet the test for implementation of a PSPO and are not considered significant enough to warrant reconsultation on the proposals but would be in response to the consultation process. It is therefore put to members that both of these items be included in the final order, if members see fit to approve it.

Enforcement of the Order if approved.



It is recognised that the implementation of this order will raise expectation of response and enforcement in relation to the issues raised. It is clear that enforcement is just one element of the measures needed to address the problem, and education and engagement must also be effectively utilised.

Due to the pandemic, a number of recent funding opportunities have arisen that are being pursued at the current time and due to timing of this report it is not possible to provide further details at this time. In fact, approval of the PSPO may assist in some of these funding considerations. If members so wish, we will bring details of our proposed wider response to a future meeting for review and comment. We will also be reporting these measures to the North Devon and Torridge Community Safety Partnership who will have oversight of the response.

3. IMPLICATIONS

Legal Implications

Imposition of Public Space Protection Orders are available to Local Authorities under section 59 of the Antisocial Behaviour, Crime and Policing Act 2014 to address antisocial behaviour and nuisance issues that are having or a likely to have a detrimental effect on the local community. Certain tests must be met in order to impose an order and must be taken into consideration at the final decision stage of the PSPO. This consultation process seeks to determine public need and impacts of imposing such an order.

Financial Implications

As part of the implementation of the PSPO, consideration is being given to suitable signage in the locality affected that would publicise the provisions in place. Costs of this will be met from the existing community safety budget but can be offset by future penalty notice income. There is the possibility that local businesses might be prepared to contribute to signage costs and this will be explored should approval be given.

Human Resources Implications

No implications.

Sustainability/Biodiversity Implications

No implications.

Equality/Diversity

All PSPO's proposals will be screened to ensure that no protected group are disadvantaged through the imposition of the provisions.

Risk Management

The PSPO provisions are designed to address antisocial behaviour and nuisance issues that are having or a likely to have a detrimental effect on the local community. Failure to implement this or implement them effectively may lead to the continuation of this nuisance or antisocial behaviour.

Conversely, it should be noted that draconian implementation of these provisions has drawn negative, sometimes national, press therefore any provisions must be carefully considered and be a fair and proportionate response to evidenced need.



Compliance with Policies and Strategies

This action supports our corporate themes for our Local Economy and Communities, Health and Housing.

Data Protection (GDPR) Implications

None

Climate Change

None

Ward Member and Lead Member Views

Supports.

4. CONCLUSIONS

These proposals offer a pragmatic, proportionate and enforceable response to antisocial street drinking in Bideford.

5. RECOMMENDATIONS

- a) That a Public Space Protection Order in relation to Anti- Social Behaviour is designated in a defined area of Bideford under section 59 of the Antisocial Behaviour, Crime and Policing Act 2014.
- b) That the Restricted Area given in the Order is extended to include the public area known as Bank End.
- c) That the Order be modified to include *other intoxicating substances* in addition to alcohol
- d) That a future report be brought before members outlining the proposals in relation to education, engagement and enforcement in response to the implementation of the Order.

SUPPORTING INFORMATION

Members Consulted: Cllr Hackett (Lead), and Bideford Members

Contact Officer: Janet Williams
Janet.williams@torridge.gov.uk
01237 428857

Background Papers: None

