

SUBJECT: PROPOSALS FOR THE EXTENSION OF EXISTING PUBLIC SPACE PROTECTION ORDER IN THE CITY CENTRE.

DIRECTORATE: COMMUNITIES AND ENVIRONMENT

LEAD OFFICER: BEN JACKSON, PUBLIC PROTECTION, ANTI-SOCIAL BEHAVIOUR AND LICENSING SERVICE MANAGER

1. Purpose of Report

- 1.1 To brief Policy Scrutiny Committee members on the process and consideration given to date, to extend an existing Public Space Protection Order in the City Centre.
- 1.2 To seek the views of the Policy Scrutiny Committee on proposals regarding the extension of the existing Public Space Protection Order (PSPO) prior to its consideration by the Executive.

2. Executive Summary

- 2.1 In October 2014 the Secretary of State enacted new powers from the Anti-Social Behaviour, Crime and Policing Act, relevant to tackling Anti-Social Behaviour. These powers also make changes to some of the relevant existing legislation and the Council is required, within the period of three years, to reconsider its Designated Public Place Orders (DPPOs) and either withdraw or replace them with new Public Space Protection Orders (PSPOs).
- 2.2 The PSPOs are more flexible and can be applied to a much broader range of issues, with local authorities having the ability to design and implement their own prohibitions or requirements where certain conditions are met. These conditions centre on the impact to the quality of life in the locality, persistence, and whether the impact makes the behaviour unreasonable.
- 2.3 In February 2021 the Executive approved the extension of an already implemented PSPO covering an area of the City Centre. The PSPO prohibited the following behaviours within the designated areas (see Appendix A):
 - 1. No person in the restricted area shall engage in any of the following activities: ingesting, inhaling, injecting, smoking or otherwise using an intoxicating substance unless for an exempted use;
 - 2. Any person within the restricted area who breaches the prohibition in paragraph (1) shall surrender any intoxicating substances in their possession to an authorised person.
- 2.4 A PSPO has a maximum duration of 3 years. It is therefore advisable to review the order after 3 years to determine whether it should be subject to extension or variation. As part of the review, we have sought the views of both the public and relevant partner agencies by way of a public and partner consultation, this

consultation has also been published on social media for greater reach. This consultation period opened on Wednesday 22 November 2023 and closed on Wednesday 20 December 2023.

- 2.5 We have also collated and considered data held by the City of Lincoln Council.
- 2.6 The consultation sought views on questions outlined in 5.1.
- 2.7 The City of Lincoln, much like other towns and cities nationally, has a recurring issue with Anti-Social Behaviour and Crime within the City Centre. Whilst the council and its partners are working collaboratively to address the complex issues of individuals with a holistic approach, there remains a clear need for deterrent and enforcement tools such as those offered by a PSPO.

3. Public Spaces Protection Orders

- 3.1 The relevant parts of the Anti-Social Behaviour, Crime and Policing Act came into force on 20 October 2014. This Act contains the provisions for the Public Space Protection Order, which were enacted by order of the Secretary of State on the 20 October 2014
- 3.2 Local authorities have the power to make Public Spaces Protection Orders if satisfied on reasonable grounds that two conditions are met.

The first condition is that—

- a) activities carried on in a public place within the Authority's area have had a detrimental effect on the quality of life of those in the locality, or
- b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or likely effect, of the activities—

- a) is, or is likely to be, of a persistent or continuing nature,
- b) is, or is likely to be, such as to make the activities unreasonable, and
- c) Justifies the restrictions imposed by the notice.

Activities can include things that a person or a group does, has done or should do (in order to reduce the detrimental effect).

- 3.3 A Public Space Protection Order is an order that identifies the space to which it applies ("the restricted area" within which the impact has or is likely to occur[ed]) and can make requirements, or prohibitions, or both within the area. This means that the local authority can, by virtue of the order, require people to do specific things in a particular area or not to do specific things in a particular area. The local authority can grant the prohibitions/requirements where it believes that they are reasonable in order to prevent or reduce the detrimental impact. The order can be made so as to apply to specific people within an area, or to everybody within that area. It can also apply at all times, or within specified times and equally to all circumstances, or specific circumstances. The order can apply for a maximum of three years upon which the process of reviews and consultation must be repeated to ensure the order is having the required effect. Thereafter it can be extended for

a further three years and, upon the reviews and consultation taking place, can be extended more than once for further periods of three years.

- 3.4 Failure to comply with either a prohibition, or requirement, within the order is an offence. Upon summary conviction (offences heard within the Magistrates Courts) defendants can face a fine not exceeding level three on the standard scale (currently £1000). The defendant cannot be found guilty of an offence under a prohibition/requirement where the local authority did not have the power to include it in the order. Breaches of the order can also be discharged by use of a fixed penalty notice (FPN). The fine attached to a FPN is £75 reduced to £50 if paid within two weeks.

4. The Current PSPO

- 4.1 In February 2021 the council enacted a Public Space Protection Order under the Anti-Social Behaviour Crime and Policing Act 2014.
- 4.2 In the area defined by the attached order and map shown in APPENDIX A, the following prohibitions apply:
1. No person in the restricted area shall engage in any of the following activities: ingesting, inhaling, injecting, smoking or otherwise using an intoxicating substance unless for an exempted use;
 2. Any person within the restricted area who breaches the prohibition in paragraph (1) shall surrender any intoxicating substances in their possession to an authorised person.
- 4.3 A PSPO may not last more than 3 years so should be reviewed after 3 years and may then be extended for a further period of up to 3 years (the PSPO can be extended more than once). As part of the review the PSPO may be amended to add or remove prohibitions or requirements, the geographical area may be altered or the order may be discharged.

5. The consultation

- 5.1 On Wednesday 22 November 2023 a public and a partnership consultation was launched. The consultation lasted 28 days and closed on Wednesday 20 December 2023 (See Appendix B). As part of the consultation the public and partners were approached seeking their views and any evidence, they may hold regarding the renewal of the PSPO;
1. Should the requirement not to consume alcohol remain as part of the PSPO.
 2. Should the requirement not to ingest, inhale, smoke or otherwise use intoxicating substances remain as part of the PSPO.
 3. Are there any other issues that you believe should be considered for inclusion in the PSPO? Please provide evidence of this issue. Evidence might include the number of reports, photos etc.
 4. Is the area designated by the PSPO still appropriate.

5.2 We have directly approached all members of the Lincolnshire Community Safety Partnership (Safer Lincolnshire Partnership) as well as approaching the following partners;

- Lincolnshire Police,
- Lincoln BIG,
- P3,
- Framework,
- Addaction.
- YMCA
- ARC
- Public Health at LCC

5.3 The consultation has been available on our website and in addition to this City of Lincoln Communications team have put out information of the public consultation via social media to improve our reach.

5.4 In responses to the consultation we have received a total of 4 partner responses and 12 responses from the public.

5.5 All 4 of the partner responses called for the existing PSPO to remain in place. 9 of public responses called for the PSPO to remain in place, with the other 3 disagreeing.

5.6 Given the low response rate from both the public and partners it is concluded that partners and the public are broadly happy with the PSPO in its current format.

6. The geographical area of the PSPO

6.1 The PSPO covers the area of the City Centre displayed on the map within appendix A.

7. Evidence

7.1 Feedback from partners including Lincolnshire Police, the CCTV team and from the Rough Sleeping Team is that the PSPO remains a useful tool. It is important to recognise that this PSPO is an effective deterrent, and the feedback suggests that colleagues and partners find it a very useful tool for tackling street drinking and drug use within the area. See Appendix B for the full consultation responses.

7.2 Lincolnshire Police respond to incidents within the City Centre. The Neighbourhood Inspector for the City Centre has provided the following in a statement:

Yes, this is a useful tool for us the police to have and also contributes to the pleasant atmosphere in the city. It would be more intimidating to users of the city centre if we didn't have this as it would allow for stag/hen parties and homeless people to consume alcohol on the streets.

The Council and Police have not issued any Fixed Penalty Notice in relation to breaches of the current PSPO for the past 18 months. The prohibitions within the PSPO require individuals to surrender the alcohol prior to a Fixed Penalty Notice being issued. The data on the number of instances where alcohol has been

surrendered is not currently recorded. The Council will have more resources available in January 2024 which will allow for enforcement and engagement of the PSPO.

8. The Proposal

- 8.1 To renew the existing Public Space Protection Order without any variations, for a further 3 years.
- 8.2 Members would need to be satisfied that the legal conditions, laid out above, have been met. Officers' view is that these requirements have been met based on:
- Feedback from the consultation attached as APPENDIX B.

9. Implementation

- 9.1 Implementation of this order, legally, would require a public notice to be published, This would be done through a formal notice in the local newspaper, notification on our website and press releases through media outlets.
- 9.2 Although not necessarily a statutory requirement, it is recommended that signage be clearly displayed in the PSPO area.

10. Enforcement

- 10.1 In relation to enforcement of the PSPO the following officers can enforce it;
- Lincolnshire police
 - Authorised Council Officers
- 10.2 Each breach of the PSPO will be carefully considered on a case-by-case basis. The main purpose of the PSPO is to act as a deterrent. The feedback to the consultation demonstrates that the main benefit of this PSPO is that it acts as a deterrent.

11. Implications

- 11.1 Any legal challenge presents a risk to the Authority. The legislation supporting implementation of the extension of the Order states that "interested persons" may challenge the validity of any order in the High Courts. This means that the Council could face a challenge against its ability to implement the Order. An application of this nature must be made within six weeks, beginning on the day the Order is made or varied. There are three grounds upon which a challenge could be made, these are:
- That the local authority did not have the power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied)
 - That a requirement under this element of the legislation not complied with in relation to the order or variation
 - The High Court would have the power to quash, amend or uphold the order.
- 11.2 The penalty for breaches of this order relate to fines alone, which may lead to significant levels of non-payment. The suite of powers available however would allow

officers to utilise a range of measures for those identified as persistently breaching the order, for example:

- Community Protection Notices could be issued against the individuals
- A Civil Injunction may be sort which contains prohibition or positive requirements. The sanctions for breaching and Injunction can include a prison sentence in extreme cases.
- A Criminal Behaviour Order could be sought. Breach of the PSPO is an offence and upon conviction, individuals could be made subject to a Criminal Behaviour Order. This carries both tougher sanctions, along with the ability to implement positive conditions requiring support for substance misuse issues.

12. Strategic Priorities

12.1 Let's drive economic growth

Projects within the city centre to tackle anti-social behaviour enhance our city making it a more attractive city for investment.

12.2 Let's reduce inequality

The service seeks to reduce inequality through its work with individuals and communities.

12.3 Let's enhance our remarkable place

Projects within the city centre to tackle anti-social behaviour serve to improve and enhance the city.

13. Organisational Impacts

13.1 Finance

Enforcement costs under this order will be met by existing Police staff. Any supplementary enforcement will form a part of the role of the Public Protection and Anti-Social Behaviour Officers. There are some internal costs for consultation and a small cost associated with the publication of the Order and stationery for FPNs along with signage. These will be met from within existing budgets.

Income from FPNs is expected to be small and will be used to cover the associated costs of implementing the proposal.

13.2 Equality, Diversity and Human Rights

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

13.3 Equality, Diversity & Human Rights (including the outcome of the Equality assessment- Appendix C)

An Equality Analysis has been undertaken and is attached. The proposal does not disproportionately affect any protected group and complies with legislation to have regard for Human Rights in developing procedures.

The Council and Police work closely with partner agencies such including drug and alcohol services and mental health teams, to support individuals that may engaging in any of the prohibited behaviour outlined on the PSPO. There is a two weekly City Centre Tasking meeting which is a multi-agency meeting that have the aim of resolving ASB and/or crime in the City Centre. Partners such as the Councils Rough Sleeping team attend to provide support to any cases involving rough sleepers.

13.4 Human Resources

No current implications.

13.5 Land, Property and Accommodation

All land owners within the area are required to be consulted, which has been satisfied through the consultation conducted.

13.6 Significant Community Impact

This report identifies a proposal that has the potential to deliver a significant positive community impact if used to its full potential.

13.7 Corporate Health and Safety implications

There are health and safety consideration regarding approaching potential perpetrators who are in breach of the PSPO however the teams involved, namely the Police and Council teams, have risk assessments in place to manage and mitigate the risk. There is also good CCTV coverage in the city centre.

14. Risk Implications

14.1 (i) Options Explored

1. Extend the existing PSPO.
2. Extend and vary the PSPO to reword the prohibitions and / or change the geographical area.
3. Not extend the existing PSPO

14.2 (ii) Key risks associated with the preferred approach

There is a risk that expectations will be raised by this order which agencies cannot meet. The order may not resolve the issues.

15. Recommendation

15.1 To comment on the proposal to extend the current PSPO without any variations to the prohibitions or location and refer comments for the consideration of the Executive.

Is this a key decision? No

Do the exempt information categories apply? No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain? 3

APPENDIX A – Existing PSPO Inc. Map
APPENDIX B – Consultation responses
APPENDIX C – Equality Assessment

List of Background Papers: None

Lead Officer: Ben Jackson – Public Protection, ASB & Licensing
Service Manager
Email: Ben.Jackson@lincoln.gov.uk