

North Tyneside Council
Report to Cabinet
Date: 18 September 2023

Title: Public Spaces Protection Orders

Portfolio: Environment	Cabinet Member: Councillor Hannah Johnson
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Report from Service Area: Environment

Responsible Officer: Samantha Dand, Director of Environment **Tel: (0191) 643 3442**

Wards affected: All

PART 1

1.1 Executive Summary:

Tackling environmental crime is a key priority of the Elected Mayor and Cabinet to ensure that North Tyneside remains a great place to live, work and visit. Having legal powers available to effectively manage and enforce environmental crime is essential to the quality of life of the community. Public Spaces Protection Orders (PSPOs) provides the Authority with an important enforcement tool.

In October 2020, Cabinet approved the extension of existing PSPOs within the Borough, covering the control of dogs and the consumption of alcohol in public spaces. PSPOs however cannot last for more than 3 years, therefore the PSPOs currently in place will expire in October 2023 if they are not extended.

At its meeting on 22 May 2023, Cabinet approved a 4-week public consultation exercise on proposals to extend the existing PSPOs for a further 3 years.

Cabinet agreed to receive a further report following the conclusion of the consultation exercise to determine if it was 'reasonably satisfied'; in accordance with the enabling legislation, to extend the PSPOs.

This report presents to Cabinet the outcome of the consultation exercise and invites Cabinet to determine whether the PSPOs should be extended for a further 3 years.

1.2 Recommendations:

It is recommended that Cabinet:

- i. notes the consultation exercise undertaken on the proposed extension of Public Spaces Protection Orders for a further period of 3 years and the consultation responses as outlined in this report;
- ii. approves the making of the Orders at Appendix 5 of this report that will extend the original Public Spaces Protection Orders for a further period of 3 years;
- iii. authorises the Head of Law in consultation with the Director of Environment and the Cabinet Member for Environment to correct any minor drafting errors that may be identified in the Orders referred to in ii above, and make minor amendments including deletions and insertions that may be necessary to ensure that the Orders extending the Public Spaces Protection Orders, reflect the intentions of Cabinet as set out in this report;
- iv. authorises the Head of Law in consultation with the Director of Environment and the Cabinet Member for Environment to make the Orders at Appendix 4 of this report, subject to the correction of any minor amendments in accordance with recommendation iii above and to undertake all ancillary matters associated with this recommendation, including the signing of the Orders on behalf of the Authority; and
- v. authorises the Director of Environment and the Cabinet Member for Environment to consider the key emerging themes arising from the public consultation and undertake any action that is considered appropriate.

1.3 Forward Plan:

Twenty-eight days' notice of this report has been given and it first appeared on the Forward Plan that was published on 4 July 2023.

1.4 Council Plan and Policy Framework

This report relates to the following priorities in the 2021-2025 Our North Tyneside Plan:

A secure North Tyneside:

- Council Wardens will work in partnership with Northumbria Police to prevent and tackle all forms of anti-social behaviour.

A Green North Tyneside:

- Council environmental hit squads will crack down on littering.

1.5 Information:

1.5.1 Background

Public Spaces Protection Orders (PSPOs) were introduced by The Anti-social Behaviour, Crime and Policing Act 2014 (the '2014 Act'). The Act provided local authorities with powers to introduce PSPOs to deal with any particular activities having a detrimental effect on the quality of life of those in the community, or any likely activity that would have such an effect.

PSPOs sit amongst a wider range of powers and tools that can help tackle anti-social behaviour. Choosing the right approach will depend on the specific issues of concern, and considering what is likely to be the most targeted and effective response in the circumstances.

A PSPO effectively prohibits specified things from being done or requires certain things to be done in an area covered by it, whilst ensuring that law-abiding members of the public can use and enjoy that area.

A PSPO can be made by the Authority where it is satisfied on reasonable grounds that two conditions are met:

- 1) Activities carried on in a public place within the Borough have had a detrimental effect on the quality of life of those in the locality or it is likely that activities will be carried out in the area that will have such an effect; and
- 2) 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 PSPO.

During 2017, proposals to introduce PSPOs resulted in draft Orders being consulted on in accordance with the requirements of the Act. At its meeting on 9 October 2017, Cabinet approved the making of PSPOs within the Borough and these were made on 20 October 2017 and are attached at Appendix 1 of this report.

On 21 September 2020, Cabinet agreed to the extension of the PSPOs made in October 2017, for a period of 3 years up to 19 October 2023. The Extension Orders are attached at Appendix 2 of this report.

The PSPOs introduced prohibitions and requirements, and consolidated several existing prohibitions and requirements contained in by-laws and other types of Orders made by the Authority to tackle anti-social behaviour. A summary of the activities controlled by the PSPOs is attached as Appendix 3 of this report. When a PSPO is made, the 2014 Act specifies that it cannot last for more than 3 years unless formally extended by the local authority who made the PSPO before it expires. The effect of this is that the PSPOs made by the Authority will expire at midnight on 19 October 2023, if they are not extended before that date.

The 2014 Act provides that the Authority may extend those PSPOs for a further period of not more than 3 years. Any proposed extension of those PSPOs cannot take place until the necessary statutory consultation and necessary publicity on the proposed extension has taken place in accordance with the 2014 Act.

At its meeting on 22 May 2023, Cabinet approved a 4-week public consultation exercise on proposals to extend those PSPOs. Cabinet agreed to receive a further report following conclusion of the consultation exercise to determine if it is reasonably satisfied that extending the PSPOs is necessary to prevent: -

- a) occurrence or recurrence of the activities identified in the PSPOs after the expiry of the PSPOs; or
- b) an increase in the frequency or seriousness of those activities after the expiry of the PSPOs.

1.5.2 The Consultation

Following Cabinet's decision to undertake the consultation outlined above, an engagement plan was finalised. The key objectives set were to:

- Engage as widely as possible with all members of the community.
- Encourage as many people as possible to have their say to inform decision-making.

The method of engagement was primarily internet-driven using information published on the Authority's website, where visitors were requested to complete an online survey. This closely reflected the chosen method used during the last consultation in 2020 which proved to be successful.

To support the website, the following activity was also undertaken:

- The survey was published on the "Have Your Say" hub.
- Targeted awareness-raising emails were sent to members of Our North Tyneside Voice, subscribers to the Have Your Say newsletter and statutory consultees.
- Printed copies were displayed in our 6 community hubs.

Public consultation on the proposals took place over the 4-week period from Monday 5 June to Monday 3 July 2023.

1.5.3 Outcome of the Consultation

The Authority received 107 responses to the online questionnaire and 1 further response by other means.

Overall, respondents provided huge support to the proposal to extend the PSPOs.

In relation to dog controls:

- **93%** supported the continuation of the Borough wide PSPO controlling dog fouling and failing to pick up
- **85%** supported the continuation of the PSPO excluding dogs from designated play sites
- **73%** supported the continuation of the PSPO excluding dogs from designated beaches during the period 1 May to 30 September
- **91%** supported the continuation of the PSPO requiring dogs to be on a lead in designated public spaces
- **84%** supported the continuation of the PSPO requiring a dog to be put on a lead when directed to do so.

In relation to alcohol controls:

- **80.5%** supported the continuation of the borough wide PSPO controlling the nuisance of on street drinking.

In addition to the questions asked, respondents were invited to provide comments on each of the PSPOs which led to 161 individual comments being made. These were analysed to identify key emerging themes.

Themes that emerged in relation to dog controls were:

- Levels of enforcement
- Better education
- The availability of bins
- Making changes to the scope of the control excluding dogs from beaches (there was a mix of opposing views with some seeking a relaxation and others seeking an extension).

Themes that emerged in relation to alcohol controls were:

- Levels of enforcement
- Continuation of responsible consumption

A more detailed summary of the conclusions of are included in Appendix 4.

1.5.4 Other evidence

North Tyneside is one of the safest places in England to live, work and visit. However, tackling environmental crime is a key priority of the Elected Mayor and Cabinet.

Over the years, additional officer capacity has been introduced, which includes new community protection wardens and an environmental rapid response team. Also, an additional two fully electric CCTV vehicles have been introduced, along with more mobile CCTV cameras to tackle anti-social behavior and environmental crime.

Having legal powers available to deter environmental crime and to take action when it is appropriate to do so is key to ensuring that the Borough remains a great place to live, work and visit. PSPOs provide the Authority with an important enforcement tool.

In the 2021 Resident's Survey:

- 46% of residents highlighted a clean environment as being one of the most important factors to them in making the Borough a good place to live
- In some areas, only 45% of residents reported feeling safe after dark.

The importance to residents of being able to address crime and tackle anti-social behaviour has increased at a national level as well as locally in North Tyneside.

The Authority has a published Statement of Enforcement Policy which is based on taking a proportionate approach towards achieving compliance with the law. Considerable community engagement is undertaken by the Authority's community protection and environment teams. In some circumstances formal enforcement is required and 258 Fixed Penalty Notices have been issued by the Authority between October 2020 and March 2023.

1.5.5 Determining to extend PSPOs

Given the outcome of the public consultation outlined in section 1.5.3 above and both the context and evidence provided in section 1.5.4 it is recommended, in accordance with the 2014 Act, that Cabinet can be satisfied on reasonable grounds that extending the current PSPOs is necessary to prevent:

- a) occurrence or recurrence of the activities identified in the PSPOs after the expiry of the PSPOs; or

b) an increase in the frequency or seriousness of those activities after the expiry of the PSPOs.

1.5.6 Next Steps

Should Cabinet decide to extend the PSPOs for a 3-year period, the Orders attached at Appendix 5 of this report will be made implementing that decision. It is proposed that the Head law after appropriate consultation with the Director of Environment and the Cabinet Member for Environment will take all the appropriate steps to ensure that the Orders are made in accordance with the wishes of Cabinet.

In addition, it is proposed that the key themes that emerged from the public consultation responses highlighted in section 1.5.3 will be considered further by officers with oversight provided by the Cabinet Member for Environment. Any action that is considered appropriate will be taken in consultation with Cabinet.

1.6 **Decision options:**

The following decision options are available for consideration by Cabinet:

Option 1

To agree to the recommendations set out in Section 1.2 of this report.

Option 2

Not to agree to the recommendation set out in Section 1.2 of this report and instruct that an alternative approach is taken.

Option 1 is the recommended option.

1.7 **Reasons for recommended option:**

Option 1 is recommended.

Section 1.5.1 of this report explains that the PSPOs in place within the Borough will expire at midnight on 19 October 2023. If the PSPOs are not extended before their expiry they will cease to have effect resulting in the Authority having no controls in place to tackle anti-social behaviour relating to dogs and the irresponsible consumption of alcohol in public spaces and the detrimental

effect that such behaviour can have on the quality of life of those in the community. Given the outcome of the public consultation exercise coupled with the other available evidence Cabinet can be reasonably satisfied that extending the PSPOs currently in place is necessary to prevent the occurrence or recurrence of the activities identified in the PSPOs after the expiry of the PSPOs , or an increase in the frequency or seriousness of those activities after the expiry of the PSPOs.

1.8 Appendices:

Appendix 1: PSPOs approved by Cabinet and made on 20 October 2017

Appendix 2: Extension Orders approved by Cabinet and made on 2 October 2020

Appendix 3: Summary of activities controlled by PSPOs

Appendix 4: Consideration of consultation responses

Appendix 5: Proposed Orders extending the PSPOs for a 3 year period

1.9 Contact officers:

Kimberley Pye, Head of Environment and Safer Neighbourhoods, Tel. (0191) 643 3442

Richard Mitchell, Community and Public Space Protection Manager, Tel. (0191) 643 7710

Samantha Dand, Director of Environment, Tel. (0191) 643 7294

John Barton, Legal Manager, Governance and Regulatory Team, Legal Services, Tel. (0191) 643 5354

David Dunford, Senior Business Partner, Tel. (0191) 643 7027

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- 1) [The Anti-Social Behaviour, Crime and Policing Act 2014](#)
- 2) [Statutory guidance from Home Office on Anti-social behaviour powers](#)
- 3) [PSPOs: Guidance for councils, LGA](#)
- 4) [North Tyneside Council Statement of Enforcement Policy](#)
- 5) [Cabinet decision, 9 October 2017](#)
- 6) [Cabinet report, 9 October 2017](#)
- 7) [Cabinet decision, 21 September 2020](#)

- 8) [Cabinet report, 21 September 2020](#)
- 9) [Cabinet report, 22 May 2023](#)
- 10) [Engagement Plan](#)
- 11) [Equality impact assessment](#)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The cost of the proposal contained within section 1.2 of the report to extend the PSPOs in place within the Borough for a period of 3 years can be managed within existing revenue budgets within Environment.

2.2 Legal

As stated in the report, the Anti-Social Behaviour, Crime and Policing Act 2014 (the 2014 Act) introduced Public Spaces Protection Orders (PSPOs) as a means of tackling a wide range of anti-social behaviour that can have a detrimental effect on the lives of those living and working in the Borough. PSPOs can be used to tackle such issues as litter, vandalism, public drunkenness, and the control of dogs.

The Authority can extend a PSPO for a period of up to 3 years if the Authority is satisfied that it has reasonable grounds for doing so in accordance with section 60(2) of the 2014 Act. Before any extension of a PSPO can be made “necessary consultation” has to take place on the proposed extension with those set out in in section 72(4) of the 2014 Act. It is also necessary to undertake “necessary publicity” before extending a PSPO which means publicising the fact that a proposal to extend a PSPOs is being considered. Both consultation on, and the publicising of, the proposal to extend the PSPOs has taken place as set out in the report.

A PSPO can be extended more than once under section 60 of the 2014 Act.

The decision on whether or not to extend the PSPO is a Cabinet function because there is nothing in the 2014 Act that specifies that such a decision has to be taken by Council and there is nothing in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 that indicates that the making of a PSPO is a function that is not the responsibility of Cabinet.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

Consultation on the proposal to extend the PSPOs has taken place with the Cabinet Member for Environment and Cabinet Member for Public Health and Wellbeing.

2.3.2 External Consultation/Engagement

Sufficient external consultation and engagement took place on the proposal to extend the PSPOs. Prior to commencement of the consultation, an engagement plan was finalised as agreed by Cabinet, taking account of; the consultation requirements of the 2014 Act, the 4-week consultation period and the recognised corporate standards for consultation.

Section 1.5.2 of the report outlines the comprehensive way in which the consultation was advertised and promoted. The Authority received an overall 108 responses.

2.4 **Human rights**

In deciding whether or not to make a PSPO the Authority must have particular regard to the rights of freedom of expression and freedom of assembly as set out Articles 10 and 11 of the European Convention on Human Rights respectively and the Authority must be satisfied that it is reasonable and proportionate to make or extend PSPOs.

2.5 **Equalities and diversity**

An Equality Impact Assessment (EqIA) was undertaken prior to commencement of the consultation exercise. This has been reviewed and no further changes have been identified at this point.

Should Cabinet decide to extend the PSPOs the EqIA will continue to be reviewed during the implementation period.

2.6 **Risk management**

There are no risk management implications arising directly from this report. Risks are managed via the established risk management arrangements in

place within Environment which form part of the corporate risk management framework.

2.7 Crime and disorder

The purpose of a PSPO is to provide the Authority and Police with the ability to effectively tackle anti-social behaviour, which can amount to crime and disorder.

2.8 Environment and sustainability

The existence of PSPOs can improve the environment for the community by preventing behaviour that has a detrimental effect on the community from occurring or recurring.

PART 3 – SIGN OFF

- Chief Executive
- Director of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Assistant Chief Executive