

North Tyneside Council

Report to Cabinet

Date: 29 June 2020

Title: Public Spaces Protection Orders

Portfolio: Environment & Transport
Community Safety & Engagement

Cabinet Member: Councillor Carl Johnson
Councillor Carole Burdis

Report from Service Area: Environment, Housing and Leisure

Responsible Officer: Phil Scott, Head of Environment Housing and Leisure **Tel: (0191) 643 7295**

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 2017, following the introduction of new legislation, Cabinet approved the making of 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 2020.

It is proposed that these PSPOs are extended for a further 3 years using the powers available to do so. This report seeks approval for the commencement of a 6 week consultation exercise to be undertaken on that proposal. This will inform Cabinet before it makes a final decision.

1.2 Recommendations:

It is recommended that Cabinet:

- i. agree to the commencement of a 6 week consultation exercise on the proposed extension of the Public Space Protection Orders attached at **Appendix 1** of this report;

- ii. authorise the Head of Environment, Housing and Leisure in consultation with the Cabinet Member for Environment and Transport and the Cabinet Member for Community Safety and Engagement to undertake all appropriate steps to undertake the consultation exercise and any ancillary matters relating to it; and
- iii. agree to receive a further report following the conclusion of the consultation exercise to consider the consultation responses and to determine if there are reasonable grounds for the Public Space Protection Orders to be extended for a further period of 3 years.

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 29 May 2020.

1.4 Council Plan and Policy Framework

This report relates to the following priorities in the 2020-2024 Our North Tyneside Plan:

Our places will:

- Provide a clean, green, healthy, attractive, safe and sustainable environment

1.5 Information:

1.5.1 Background

Tackling environmental crime is a key priority of the Elected Mayor. In the 2018 Resident's Survey 48% 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. The 2018 Resident's Survey also told the Authority that 89% of people in North Tyneside feel safe in their local area during the day, which is consistent to previous years. However, fewer residents, 55%, 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.

Additional officer capacity has been introduced which includes new community protection wardens and an environmental rapid response team. Also, a new CCTV vehicle has been introduced along with more CCTV cameras which are capable of being redeployed to tackle identified hotspots for anti-social behaviour 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. Public Spaces Protection Orders (PSPOs) provide the Authority with an important enforcement tool.

1.5.2 What is a PSPO?

PSPOs were introduced by The Anti-social Behaviour, Crime and Policing Act 2014 (the 'Act'). The Act gave powers to local authorities to introduce PSPOs to deal with any particular nuisance or problem having a detrimental effect on the quality of life of those in the community.

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, or are likely to have, a detrimental effect on the quality of life of those living or working in the locality; 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.

1.5.3 PSPOs in North Tyneside

During 2017 proposals to introduce PSPOs resulted in draft Orders being consulted on in accordance with the requirements of the Act. At its meeting of 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.

The PSPOs introduced prohibitions and requirements and consolidated a number of 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 2** of this report.

As before, the prohibitions and requirements introduced by the PSPOs were aimed at tackling problems relating to irresponsible dog ownership and the irresponsible consumption of alcohol in public places. However, the opportunity was taken in 2017 to extend the coverage of some of those controls and at the same time preserve what was previously in place under the by-laws or Orders.

For example, the control of dogs was extended to exclude dogs from all play sites, not just some sites, and the restriction on the consumption of alcohol in a public space was extended from specified designated areas to include the whole borough.

The PSPOs made on 20 October 2017 were to remain in force for a period of 3 years.

PSPOs are enforceable by means of a Fixed Penalty Notice of up to £100 and these can be issued by officers from the Authority and the Police. Court action can be taken against persons who have failed to pay the fixed penalty within the requisite period of time for the offence of failing to comply with the terms of the PSPO. A person who without reasonable excuse fails to comply with the requirements imposed by a PSPO restricting the consumption of alcohol on conviction can be fined up to £500 whilst a person who without reasonable excuse fails to comply with the terms of a PSPO prohibiting or restricting other types of behaviour on conviction can be fined up to £1,000.

At its meeting on 9 October 2017, Cabinet set the Fixed Penalty Notice amount to be set at the statutory maximum of £100 but this is discounted to £75 if it is paid within 21 days.

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 however required.

A total of 49 Fixed Penalty Notices have been issued between October 2017 and March 2020. Six out of ten Fixed Penalty Notices issued have been in relation to dog fouling offences and three out of ten for dog control offences. Following the PSPOs being made in October 2017, the number of reported dog fouling incidents has decreased year on year, whereas prior to this, the number of reported incidents had been showing a steady increase since 2013/14. During 2019/20, there were 449 dog fouling incidents reported to the Authority, 424 in 2018/19, compared to 585 incidents during 2017/18 and 537 in 2016/17.

1.5.4 Extension of PSPOs

When a PSPO is made the Act specifies that it cannot last for more than 3 years unless formally extended. The effect of this is that the PSPOs made by the Authority on 20 October 2017 will expire at midnight on 19 October 2020 if they are not extended. However, the Act provides that the Authority may extend the PSPOs for a further period of not more than 3 years. Any proposed extension of the PSPOs cannot take place until the necessary statutory consultation on the proposed extension has taken place in accordance with the Act.

It is proposed that at the end of the consultation exercise a further report will be presented to Cabinet. Cabinet at that stage, having regard to the consultation responses and any other relevant considerations, will be in a position to determine if it is reasonably satisfied that extending the PSPOs is necessary to prevent: -

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

1.5.5 Next Steps

Should Cabinet approve commencement of the consultation exercise on extending the PSPOs a comprehensive engagement plan will be finalised. The Act requires the Authority to consult with:

- the Chief Officer of Police
- the Police and Crime Commissioner
- the owner or occupier of land within restricted areas
- community representatives the Authority thinks it appropriate.

The engagement plan will meet both the statutory requirements and the Authority's recognised corporate standards for consultation. Due regard will be given to the on-going restrictions imposed by the Covid-19 pandemic.

As stated, the consultation responses will be collated and analysed with recommendations being brought back to a future Cabinet meeting so that an informed decision can be taken as to the whether or not to extend the PSPOs.

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 1.5.4 of this report explains that the PSPOs in place within the borough will expire on 19 October 2020. 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 alcohol and the detrimental effect that such behaviour can have on the quality of life of those in the community.

1.8 Appendices:

Appendix 1: PSPOs approved by Cabinet and made on 20 October 2020

Appendix 2: Summary of activities controlled by PSPOs

1.9 Contact officers:

Colin MacDonald, Senior Manager, Technical and Regulatory Services, Tel. (0191) 643 6620

Samantha Dand, Senior Manager, Local Environmental Services, Tel. (0191) 643 7294

Paul Worth, Senior Manager, Housing Operations, Tel. (0191) 643 7554

John Barton, Lawyer, Tel: (0191) 643 5354

David Dunford, Acting 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 Published by the 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) [Equality Impact Assessment](#)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The review process outlined and proposed in this report will be managed within existing budgets. Any additional financial implications will be reported to Cabinet.

2.2 Legal

As stated, 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. PSPOs

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. The authority to undertake such consultation is now being sought from Cabinet.

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 the proposal to extend the PSPOs has taken place with the Cabinet Member for Environment and Transport and the Cabinet Member for Community Engagement.

2.3.2 External Consultation/Engagement

Section 1.5.5 of the report highlights that a statutory consultation process is required by the Act and that an engagement plan will be finalised to meet both the statutory requirements and the Authority’s recognised corporate standards for consultation. Due regard will be given to the on-going restrictions imposed by the Covid-19 pandemic.

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 of Human Rights respectively.

2.5 Equalities and diversity

An Equality Impact Assessment has been undertaken which will be kept under review during the consultation process. It will be updated prior to finalising and implementing the proposals outlined in the report.

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, Housing and Leisure 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 X
- Head of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Head of Corporate Strategy and Customer Service X