

# North Tyneside Council

## Report to Cabinet

### Date: 21 September 2020

#### Title: Public Spaces Protection Orders

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**Portfolio:** Environment & Transport  
Community Safety & Engagement

**Cabinet Member:** Councillor Carl Johnson  
Councillor Carole Burdis

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**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

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#### 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) provide the Authority with an important enforcement tool.

In October 2017, following approval by Cabinet, PSPOs were made to tackle problems in the borough relating to irresponsible dog ownership and the irresponsible consumption of alcohol in public places. PSPOs cannot last for more than 3 years unless formally extended. The effect of this is that the PSPOs made by the Authority in October 2017 will expire in October 2020 if they are not extended.

At its meeting on 29 June 2020, Cabinet approved a 6-week public consultation exercise on proposals to extend those 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 make that decision.

This report presents to Cabinet the outcome of the consultation and invites Cabinet to determine that the PSPOs 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 4 of this report that will extend the Public Spaces Protection Orders made on 20 October 2017 for a period of 3 years;
- iii. authorises the Head of Law and Governance in consultation with the Head of Environment, Housing and Leisure, the Cabinet Member for Environment and Transport and the Cabinet Member for Community Safety and Engagement 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 and Governance in consultation with the Head of Environment, Housing and Leisure, the Cabinet Member for Environment and Transport and the Cabinet Member for Community Safety and Engagement 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 Head of Environment, Housing and Leisure, the Cabinet Member for Environment and Transport and the Cabinet Member for Community Safety and Engagement 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 10 July 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

Public Spaces Protection Orders (PSPOs) were introduced by The Anti-social Behaviour, Crime and Policing Act 2014 (the '2014 Act') and 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.

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.

The Authority made PSPOs on 20 October 2017 following approval by Cabinet which seek to tackle problems relating to irresponsible dog ownership and the irresponsible consumption of alcohol in public places.

A summary of the activities controlled by those PSPOs is attached as **Appendix 1** of this report.

Copies of the PSPOs that it is now proposed should be extended are attached as **Appendix 2** 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 on 20 October 2017 will expire at midnight on 19 October 2020 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 29 June 2020, Cabinet approved a 6-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. That engagement plan needed to take account of the on-going restrictions imposed by the Covid-19 pandemic. The key objectives set were to:

- Complete the task safely in a Covid-secure way
- 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 2017 which proved to be very successful.

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

- A press release and regular postings on social media publicising the proposal to extend the PSPOs;
- Information displayed on noticeboards in public places such as parks and cemeteries; and
- Targeted awareness-raising emails to residents, elected members, statutory consultees, partners, agencies, organisations and groups with an interest in how our public spaces are managed (which is in keeping with the requirements of the 2014 Act which requires consultation with "community representatives" as considered appropriate).

Public consultation on the proposals took place over the 6-week period from Tuesday 14 July to Monday 24 August 2020.

### 1.5.3 Outcome of the Consultation

The Authority received 180 responses to the online questionnaire and a further 4 responses by other means.

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

In relation to dog controls:

- **95%** supported the continuation of the borough wide PSPO controlling dog fouling and failing to pick up
- **92%** supported the continuation of the PSPO excluding dogs from designated play sites
- **74%** supported the continuation of the PSPO excluding dogs from designated beaches during the period 1 May to 30 September
- **85%** supported the continuation of the PSPO requiring dogs to be on a lead in designated public spaces
- **90%** 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:

- **87%** 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 251 individual comments being made. These were analysed to identify key emerging themes.

Themes that emerged in relation to dog controls were:

- The availability and use of bins
- Levels of enforcement
- Better signage
- 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:

- Reflections on alcohol-related disorder during the Covid-19 pandemic
- Levels of enforcement
- Extending the scope to cover other environmental problems such as littering.

Two respondents used the opportunity during the consultation to request that new PSPOs be considered to tackle specific nuisance in their local area.

A more detailed summary of the conclusions of are included in **Appendix 3**.

#### 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. 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. PSPOs provide the Authority with an important enforcement tool.

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
- Fewer than 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.

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. Available data includes:

- 49 Fixed Penalty Notices have been issued between October 2017 and March 2020
- 6 out of 10 Fixed Penalty Notices issued have been in relation to dog fouling offences and three out 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.

#### 1.5.5 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 4** of this report will be made implementing that decision. It is proposed that the Head of Law and Governance, after appropriate consultation with the Head of Environment, Housing and Leisure, the Cabinet Member for Environment and Transport and the Cabinet Member for Community Safety and Engagement 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 and Transport and the Cabinet Member for Community Safety and Engagement. 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 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 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: Summary of activities controlled by PSPOs  
Appendix 2: PSPOs approved by Cabinet and made on 20 October 2017  
Appendix 3: Consideration of consultation responses  
Appendix 4: Proposed Orders extending the PSPOs for a 3 year period

## **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) Cabinet decision, 21 September 2020
- 8) Cabinet report, 21 September 2020
- 9) Engagement Plan
- 10) 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, Housing and Leisure.

## **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 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.

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 Transport and the Cabinet Member for Community Engagement. In addition, during the consultation period highlighted in section 1.5.2 all elected members were contacted directly to have their say.

### **2.3.2 External Consultation/Engagement**

Extensive 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 6-week consultation period, the recognised corporate standards for consultation, and the on-going restrictions imposed by the Covid-19 pandemic.

Section 1.5.2 of the report outlines the comprehensive way in which the consultation was advertised and promoted. The Authority received an encouraging 184 responses. Furthermore, these were from a broad range of respondents which achieved the key objectives set out in the engagement plan, to engage as widely as possible with all members of the community and encourage as many people as possible to have their say to inform decision-making.

## **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 (EIA) was undertaken prior to commencement of the consultation exercise. This has been reviewed and no further changes have been identified at this point. Equality monitoring undertaken during the consultation stage highlighted that there was strong participation from those identified within the borough as having a protected characteristic.

Should Cabinet decide to extend the PSPOs the EIA 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, 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
- Head of Service
- Mayor/Cabinet Members
- Chief Finance Officer
- Monitoring Officer
- Head of Corporate Strategy and Customer Service