

Committee Name and Date of Committee Meeting

Cabinet – 16 September 2024

Report Title

Boroughwide and Town Centre/Clifton Park Public Space Protection Orders

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Andrew Bramidge, Strategic Director Regeneration and Environment

Report Author(s)

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Ward(s) Affected

Dog Fouling – Borough Wide

Town Centre & Clifton Park – Boston Castle & Rotherham East

Report Summary

The current Town Centre and Clifton Park Public Spaces Protection Order (PSPO) and the Borough-wide Dog Fouling Public Spaces Protection Order were renewed in January 2024 for a period of 12 months. This period of designation is intentionally shorter than the three-year maximum term that is prescribed in the applicable statute in order to allow the service to review enforcement capacity associated with any new PSPOs. This report proposes to undertake consultation to establish stakeholder views in relation to those Public Spaces Protection Orders and to gauge support for future designations. Views will be sought concurrently about the conditions that might be included within such Orders.

The options available to the Council at the end of the consultation will be to extend the Orders, vary their requirements or to discharge them. Whilst each of these outcomes are possible, the consultation responses will ultimately steer future direction.

Recommendations

1. To carry out a consultation in relation to the future Town Centre and Clifton Park Public Spaces Protection Order.
2. To carry out a consultation in relation to the future Borough wide Public Spaces Protection Order specifically dealing with dog fouling and control.

List of Appendices Included

- Appendix 1 Public Spaces Protection Orders Consultation Plan
- Appendix 2 Boroughwide PSPO in draft state
- Appendix 3 Town Centre and Clifton Park PSPO in draft state
- Appendix 4 South Yorkshire Police ASB Town Centre data 2022-2024
- Appendix 5 Environmental Health data relating to Dog Fouling and Dog Straying complaints 2018 to 2024
- Appendix 6 Initial Equality Screening Assessment
- Appendix 7 Carbon Impact Assessment

Background Papers

Item 86 Agenda for Cabinet on Monday 20 November 2023, 10.00 a.m. - Rotherham Council – Boroughwide PSPO for dog fouling

Item 87 Agenda for Cabinet on Monday 20 November 2023, 10.00 a.m. - Rotherham Council – PSPO for Town Centre & Clifton Park

Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers
Statutory guidance for frontline professionals, Home Office, August 2019

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Boroughwide and Town Centre/Clifton Park Public Space Protection Orders

1. Background

- 1.1 The Anti-Social Behaviour, Crime and Policing Act 2014 created powers to introduce Public Spaces Protection Orders (PSPOs) in order to prevent individuals or groups committing anti-social behaviour in public spaces.
- 1.2 On 20th November 2023, Cabinet agreed the implementation of a new Town Centre Public Spaces Protection Order and a new Dog Fouling Public Spaces Protection Order, which prohibit a number of behaviours and are effective from January 2024 (the time they were signed, sealed and published) for a period of 12 months each.

2. Key Issues

- 2.1 The Anti-Social Behaviour, Crime and Policing Act 2014 provides for PSPOs, to be made for a maximum period of three years.
- 2.2 The Act requires that, where Orders are to be introduced or extended, consultation must be undertaken with:
 - The Chief Officer of Police, and the local policing body, for the police area that includes the restricted area;
 - Whatever community representatives the local authority thinks it appropriate to consult;
 - The owner or occupier of land within the restricted area.
- 2.3 In addition, the Act also stipulates that necessary publicity must be undertaken which means:
 - In the case of a proposed new order or variation, publishing the text of it.
 - In the case of a proposed extension or discharge, publicising the proposal.
- 2.4 Moreover, the Council is obliged to notify the parish council or community council, of the proposed order, extension, variation or discharge.
- 2.5 Enforcement of the Order for Dog Fouling has been carried out by Council officers and through Service Level Agreement arrangements with City of Doncaster Council, whilst the Town Centre Order enforcement is by South Yorkshire Police and Council Officers.
- 2.6 Complaints of dog fouling across the Borough steadily increased in 2018 to 2021, with only 2022 showing a slight decrease against this trend. Appendix 5 shows the data for dog fouling complaints and stray dog complaints, handled by Environmental Health between 2018 to July 2024. Although complaints of straying dogs reduced prior to Covid, we are now seeing a reverse of this trend from 2022 onwards. Anti-Social behaviour in relation to irresponsible dog ownership has increased, with local and nationally publicised incidents which have led to significant harm or sadly even death of members of the public. Therefore, consideration will be given to widening the

requirements and prohibitions included in any Dog Control related Order. The consultation will seek views across stakeholders on any variation of the Order to this end.

- 2.7 Since the designation of the Public Spaces Protection Order in the Town Centre, complaints of Anti-Social Behaviour have slowly been on the rise and peaked in October 2022 according to the last set of data analysed in relation to the most recent designation in January 2024. More recent data, as shown in Appendix 4, show complaints relating to rowdy or inconsiderate behaviour remains the most significant in terms of anti-social behaviour recorded by South Yorkshire Police in the town centre and Public Spaces Protection Orders provide the tools for officers to tackle these types of problems. Begging and vagrancy, also makes up a significant proportion of complaints received about anti-social behaviour (ASB). In Appendix 4, Headline ASB data from 2022/23 to 2024/25 shows that Quarter 1 in 2024/25 increased quite significantly when compared to Quarter 1 in previous years. The last two Quarters show a significant increase in ASB in the Town Centre.
- 2.8 The Council and partners continue to receive complaints relating to the town centre from businesses, Councillors and visitors alike. The town centre is a priority area for the Council and partners with a partnership project underway to work towards tackling these problems. The Town Centre is undergoing significant regeneration including the Forge Island development.
- 2.9 The Council and Police should carefully consider how the Order can be resourced. These types of Orders are best applied where dedicated uniformed presence can be deployed in hotspot areas for such activity. Currently, neither the Police nor Council has a focussed dedicated resource for the Town Centre.
- 2.10 Current staff, including Enforcement Officers and Community Protection Officers/ Environmental Health Officers, are authorised under the relevant legislation to act. Their work is often programmed casework and they are not often deployed in a manner that allows immediate response to reported incidents or undertake pro-active patrols in relation to anti-social behaviour conducted by groups or individuals.
- 2.11 Traditionally, South Yorkshire Police supplied most of the face-to-face uniformed presence in the designated areas to support the Orders. Often this was in the form of Police Community Support Officers.
- 2.12 WISE, the Council's partnering enforcement service provided by Doncaster City Council, have agreed to accept authorisation to enforce the Orders in place. This was an addition to previous arrangements of this type which have historically included littering and dog fouling offences. This took effect from April 2024. This provides experienced, uniformed and equipped officers able to take effective action against the Orders. 11 Fixed Penalty Notices have been issued as a result of directed patrols between June 2023 and June 2024 in relation to dog fouling.

- 2.13 There is evidence of lower-level interventions such as verbal warnings and surrender of alcohol, where no offence is made because the advice/warning is complied with. In June 2024, South Yorkshire Police officers used the Town Centre Order on 9 occasions to require alcohol to be surrendered. In May and June 2024, 10 interactions with members of the public, where advice to refrain from drinking in public places had been given and positively responded to, had been logged by WISE. While these instances do not result in formal action (i.e. a fixed penalty notice), they are a positive use of the Order and high compliance with the requests are noted. This intervention would not be possible without the PSPO in place.
- 2.14 External funding from the Home Office was utilised within 2023/24 and has been extended in 2024/25 to provide additional high visibility patrols and activity by the Council and Police. Direction has been given to officers undertaking these patrols to use the PSPO tool to resolve identified issues as they arise. Additional patrols are being supplied in 6 ASB hotspots currently, some of which includes localities covered by the Orders in force.
- 2.15 The consultation in this regard will seek views on the effectiveness of the current Order and consider if any varied Clauses are required to ensure they match current priorities for all stakeholders, and match trends in relation to additional complaint types, such as Flyposting. The consultation should also seek views from all stakeholders on how the Order can be better resourced, with a commitment to do so from all relevant agencies and departments.

3. Options considered and recommended proposal

- 3.1 The Council could take the view that with relatively low levels of Fixed Penalty Notices, the Town Centre PSPO and the Dog Fouling PSPO have not served their purpose and are therefore ineffective and not required. It is not however considered that this would be a preferred option given that the issues remain and the lack of a PSPO could have a negative impact on public health and community safety. In addition, the PSPO's offer the Council and partners tools to tackle very specific problems, without which effective responses to these types of behaviours are limited and essential lower-level interventions such as verbal warnings and surrender of alcohol, where no offence is made because the advice/warning is complied with, would not be possible.
- 3.2 The consultation process is a statutory requirement prior to implementation of a PSPO. The consultation process will enable the Council to collate information about the nature and impact of ASB and to make an informed decision as to whether a PSPO is appropriate and proportionate in the circumstances. The consultation will form part of the evidence gathering process in order to assess whether the two conditions set out within the legislation, before a PSPO can be made, are met. It will guide the Council as to the types of measures that should remain in place as part of a new PSPO and what, if any, new measures should be introduced. The relevant conditions within the legislation are outlined below:

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.

4. Consultation on proposal

- 4.1 South Yorkshire Police will be further consulted on the Orders as part of the formal phase consultation. It is informative that Neighbourhood Policing Team Central Inspector John Crapper has provided the following comments: *"My experiences of policing the town centre is that there are a lot of business owners and RMBC staff who are striving to make the town centre an appealing place to visit and shop. Unfortunately, it is affected by antisocial behaviour such as street drinking and begging which affects this. Shoplifting is also a significant problem which affects the viability of the shops. The behaviour which is perpetrated by a very small minority of people has a disproportionate effect on the appeal of the town centre. The incidents which are occurring are high in volume and low in individual significance, meaning that a reactive investigation and prosecution is never likely to bring about a resolution. A resolution needs to come through prevention in the first place, through the visible presence of officers or other capable guardians, who have the powers and training to take action when they encounter things. It also requires the partnership of SYP and RMBC to successfully use civil orders and other prevention techniques, in order to deter perpetrators".*
- 4.2 It is proposed that the formal consultation will commence from 18th September 2024 and run until 30th October 2024.
- 4.3 Consultees will include amongst others, South Yorkshire Police, South Yorkshire Mayoral Combined Authority, Ward Members, key stakeholders, voluntary, community organisations, businesses and the public.
- 4.4 The consultation will seek views on the effectiveness of both Orders and gather evidence with a view to assessing whether varied requirements or prohibitions are necessary. As referenced within this report, in relation to Dog Control, this will involve wider responsible dog ownership such as a requirement to keep dogs on leads in certain areas of the Borough or when requested to do so by an authorised officer. In relation to the Town Centre, views on current priorities and complaint types will be matched to the requirements or prohibitions included in any Order.
- 4.5 A consultation plan is attached at Appendix 1.

4.6 Should the conclusion of the consultation recommend the Order is extended in its current state, the Order will be proposed as part of a further Cabinet report towards the end of the 2024 calendar year. Should the Orders be varied based on consultation, new draft Orders will need to be published before they will be formally adopted.

5. Timetable and Accountability for Implementing this Decision

5.1 Following consultation, a report will be presented to Cabinet by December 2024 detailing the findings of the consultation and any recommendations that may be required.

6. Financial and Procurement Advice and Implications

6.1 The majority of this proposed consultation exercise will be undertaken on-line, so costs associated with this process will be limited to IT costs and minimal printing and postage costs. The overall cost of this consultation exercise is estimated to be no higher than £2k and will be contained within the Service's approved revenue budget.

6.2 There are no significant procurement implications associated with the recommendations detailed in this report. The costs referred to above, should be directed through current internal or contracted arrangements.

7. Legal Advice and Implications

7.1 The power to introduce a Public Spaces Protection Order is set out in the Anti-Social Behaviour, Crime and Policing Act 2014. The Act gives the Council the authority to draft and implement a Public Spaces Protection Order in response to particular issues affecting the community, provided it is 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.

7.2 The Council will need to fully consider all evidence gathered as a result of the consultation process in order to be satisfied that the above conditions are met and to be satisfied that the Public Spaces Protection Order is necessary and proportionate in the circumstances. Any requirements or prohibitions imposed must be reasonable.

- 7.3 The Act itself sets out the ability to challenge the validity of any Order and so it is vital the Council follows the correct process in terms of the implementation of the Order and this includes the requirement to consult. The Council must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before:
- (a) making a public spaces protection order,
 - (b) extending the period for which a public spaces protection order has effect, or
 - (c) varying or discharging a public spaces protection order.

The Council must consult with:

- (a) the chief officer of police, and the local policing body, for the police area that includes the restricted area;
- (b) whatever community representatives the local authority thinks it appropriate to consult;
- (c) the owner or occupier of land within the restricted area (this does not apply to land that is owned and occupied by the local authority and applies only if, or to the extent that, it is reasonably practicable to consult the owner or occupier of the land).

- 7.4 The Council must also comply with the necessary publicity and notification requirements set out in the Act. The necessary publicity means
- (a) in the case of a proposed order or variation, publishing the text of it;
 - (b) in the case of a proposed extension or discharge, publicising the proposal;

The necessary notification requirements means notifying the following authorities of the proposed order, extension, variation or discharge:

- (a) the parish council or community council (if any) for the area that includes the restricted area;
- (b) in the case of a public spaces protection order made or to be made by a district council in England, the county council (if any) for the area that includes the restricted area.

- 7.5 Any Order can last for a maximum of 3 years, unless extended under the provisions of the Act, and any such Order can be varied and/or discharged at any time.
- 7.6 The requirement to consult is a statutory requirement however there is no set statutory time scale for the consultation. The Statutory Guidance states that the appropriate length of the consultation will depend on the circumstances of the PSPO being sought, it is important that the Council ensures that the consultation is reasonable and proportionate to the issues under consideration. The proposed consultation of 6 weeks will be sufficient and is in accordance with the recommended best practice guidance for public consultations issued by the Government.

8. Human Resources Advice and Implications

- 8.1 There are no direct Human Resources implications arising from this report.

9. Implications for Children and Young People and Vulnerable Adults

9.1 There are no Children and Young People or Vulnerable Adults implications contained within or arising from the report.

10. Equalities and Human Rights Advice and Implications

10.1 There are no Equalities and Human Rights Advice implications contained within or arising from the report.

10.2 An Initial Screening Assessment has been included at Appendix 2.

11. Implications for CO2 Emissions and Climate Change

11.1 There are no carbon or climate implications arising from this report. An assessment is contained at Appendix 3.

12. Implications for Partners

12.1 South Yorkshire Police are a key partner in delivery of the requirements of Public Spaces Protection Orders.

12.2 Businesses, particularly those within the town centre are likely to have some interest in ensuring that any impacts on the town centre from unacceptable behaviours, are made known to the Council, and in particular where these behaviours might affect the attractiveness of Rotherham as a place to do business or visit.

12.3 South Yorkshire Police, the Police and Crime Commissioner, and Barnsley and Rotherham Chamber of Commerce will be consulted under the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014, following the attached Consultation Plan at Appendix 1.

13. Risks and Mitigation

13.1 The consultation may highlight further problems that may need to be addressed beyond what the consultation includes. Consequently, there will be a need to review such issues and consider them as part of the later proposed consultation report to Cabinet

13.2 The findings from consultation must be considered in the context of the staff and resources available to enforce any provisions that are suggested in order to ensure that any measures that may be desired can be included in a meaningful way.

13.3 A standstill period for publishing of a varied Order texts, depending on the outcome of the consultation, could leave agencies without the power to enforce the legislation.

14. Accountable Officers

Sam Barstow Assistant Director, Community Safety and Street Scene
Emma Ellis Head of Service, Community Safety and Regulatory Services

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp OBE	02/09/24
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	16/08/24
Head of Legal Services (Monitoring Officer)	Phil Horsfield	16/08/24

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