

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

Report for Public Protection and Licensing Committee – April 2019

Title: Public Spaces Protection Order Public Consultation Update

Submitted by: Trevor Smith, Partnerships Interventions Officer

Portfolios: Community Safety and Wellbeing

Ward(s) affected: All

Purpose of the Report

This report is to;

- Provide an update regarding the recent public consultation undertaken on the two proposed Public Spaces Protection Orders (PSPOs) and provide recommendations to the committee seeking approval to adopt two PSPOs in the Borough.

Recommendations

That the Public Protection and Licensing Committee considers the content of this report and Members approve the making of the Orders by the Borough Council at the following locations;

1. Newcastle Town Centre PSPO(see Appendix 1)
2. Queen Elizabeth Park PSPO (see Appendix 2).

Reasons

- Following ongoing reports of anti-social behaviour in these locations, the Borough Council is seeking to use its powers to impose prohibitions to tackle incidents of anti-social behaviour. Please refer to Appendices 1 and 2 for further information.
- The Committee is required to consider agreeing both orders so that these can be adopted, publicised and enforced within Newcastle Town Centre.

1 Background

- 1.1 A Public Spaces Protection Order is an order made under the Anti-Social Behaviour, Crime and Policing Act 2014 whereby this legislation allows for an order to identify a particular space or area to which it will be applied; and can make requirements, or prohibitions, or both within that space or area. This means that the Local Authority can, by virtue of the order, require people to do, or not to do specific things in that space or area. The Local Authority has the powers to grant the prohibitions/requirements where it believes that they are reasonable in order to reduce or prevent the unwanted issues. The order can be applied to specific people or everyone within an area and can apply at all times or within specific times. The order can apply for a maximum of 3 years upon which the process of reviews and consultation must be repeated to check whether the issues are still occurring and the order is having the required effect. After the initial 3 years, the order can be extended for a further 3 years, and upon further reviews and consultation, can be extended more than once for further periods of 3 years.

- 1.2 Failure to comply with either a prohibition, or requirement stated within the order is an Level 3 offence. Upon summary conviction (offences heard within the Magistrates Court) defendants can face a fine. 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. The authority has the option to either prosecute or issue an FPN to discharge liability to convict (s67 & 68 of the ASB, Crime and Policing act).
- 1.3 The main issues in Newcastle-under-Lyme Town Centre have been highlighted as street drinking, drug taking, aggressive and/or persistent begging, general anti-social behaviour, vandalism/defacement of property and car cruising.
- 1.4 At the Public Protection and Licensing Committee on 31st July 2018 an Officer from the Partnerships Team presented a report requesting the Committee to approve the inclusion of persistent and aggressive begging in the PSPO conditions. This was approved at the same meeting.
- 1.5 A six week public consultation was undertaken from 13th August to 24th September 2018. Its purpose was to gauge the level of support for the inclusion of a number of prohibitions for the PSPO in Newcastle Town Centre.
- 1.6 A further six week public consultation was undertaken from 8th February 2019 to 22nd March. Its purpose was to outline the final agreed conditions and the defined boundaries of enforcement. Please refer to Appendix 3: Public Spaces Protection Order Public (PSPO) consultation 2018 for further information.
- 1.7 As part of the public consultation the boundaries for the exclusion zones whereby the proposed PSPO's would be situated were determined. This included the Newcastle Town centre and Queen Elizabeth Park areas.

2. Public Consultation findings

- 2.1 From 9 February to 21 March 2019 there were 161 online responses submitted, but not all respondents answered every question.
 - 143 from residents of Newcastle-under-Lyme Borough
 - 35 from people employed in Newcastle-under-Lyme Borough
 - 20 from visitors to Newcastle-under-Lyme
 - 14 from local business owners/managers in the Borough
 - 5 received from representatives of partner organisations
 - 1 from a political candidate
- 2.2 There is clear support for all the proposals with at least 74 per cent who agree that each of the proposed restrictions were justified.
 - The lowest support for the proposed restrictions related to car parks, other enclosed spaces, vandalism (74 per cent each) and begging/rough sleeping (76 per cent).
 - The highest support for the proposed restrictions related to street drinking (87 per cent) and drug taking (85 per cent).
 - The lowest rates of agreement were from the 31-40 age group. The highest levels of agreement were from the 30 and under age group.
 - Generally the older age groups were more in agreement (answering 'yes').
- 2.3 Following the feedback from the Public Consultation it provides majority support for the two PSPO's to be made. Please refer to the report in Appendix 4 for further information.

3. Proposed Prohibitions

3.1 The proposed prohibitions for the 'Town Centre' and 'Queen Elizabeth Park' PSPOs are:

1. Possessing or using of an aerosol and/or any item intended to cause defacement
2. Undertaking repairs of vehicles within Borough Council owned car parks in the Exclusion Zone other than for urgent breakdown repairs.
3. Using any Borough Council owned car parks within the Exclusion Zone as a place to congregate, such car parks are for legitimate parking purposes only.
4. Engaging in behaviour likely to cause harassment, alarm or distress within the Exclusion Zone. Examples include, but are not limited to the following activities:
 - Congregating in a group of three or more persons within the Exclusion Zone following a request from an Authorised Person that such group must disperse.
 - Being verbally abusive to any other person within the Exclusion Zone.
 - Using or threatening to use violence against any other person within the Exclusion Zone.
 - Having in their possession open cans, bottles or other unsealed receptacles containing alcoholic beverages (including empty receptacles) within the Exclusion Zone.
 - Failing to cease to consume alcohol and/or surrender alcohol when requested to do so by a police officer or other authorised person.
 - Ingesting, inhaling, injecting, smoking or otherwise using intoxicating substances including novel psychoactive substances within the Exclusion Zone.
 - Persistent and aggressive begging, causing obstruction, harassment and threatening behaviour, which could cause intimidation.

4. Recommendations

4.1 It is recommended that the Public Protection and Licensing Committee approved the proposed Public Spaces Protection Orders for both Newcastle Town Centre and Queen Elizabeth Park.

5. Outcomes Linked to Corporate Priorities

5.1 The Council Plan 2018-2022 outlines a priority to commit to provide a healthy, active and safe Borough and pledges to ensure that everyone is able to enjoy a safe environment, and have access to a wide range of facilities and activities to support residents and visitors to improve their health and quality of life. As a Borough we have a vibrant town centre and we have a priority to provide a town where everyone can live, work, shop, study and spend their leisure time whilst feeling safe. To achieve the Council's priorities PSPO's can be utilised in building on our work with Police and partners to reduce anti-social behaviour and fear of crime in our communities.

6. Legal and Statutory Implications

- 6.1 PSPO's can be challenged on the grounds that the Local Authority, under the legislation, did not have the power either to make or vary the Order or include particular prohibitions or requirements, or that proper processes had not been followed (as prescribed by the legislation). Challenges must be made to the High Courts within 6 weeks of the Order being made/varied and by an individual who lives in, regularly works in, or visits the restricted area. The High Court can quash, uphold or vary the PSPO and may decide to suspend the operation of the PSPO pending the verdict.

7. Equality Impact Assessment

- 7.1 An Equality Risk Assessment has been refreshed detailing how PSPO's will affect disadvantaged and vulnerable individuals such as dependent street drinkers, rough sleepers and beggars.

8. Financial and Resource Implications

- 8.1 The two PSPO's will be managed under existing Council resources in the Partnerships Team, Legal and Finance Teams with assistance from partners such as the Police who will be identifying breaches of the PSPO, issuing FPNs and as authorised persons on behalf of the Council as outlined in the PSPO Order.
- 8.2 There may be an additional staffing resource required to support the management of FPN's, including income recovery when non-payment occurs. This depends on how many FPNs are issued and how many occurrences there are of non-payments. Also, the level of resulting income cannot be accurately predicted but is not expected to be significant. It will be monitored on a regular basis and managed using existing resources.

9. Key Decision Information

- 9.1 This report can be considered key because it requires the Borough Council to commit existing and additional resources for the function to which the decision relates.

10. Earlier Cabinet/Committee Resolutions

- 10.1 In June 2018 the Anti-Social Behaviour Policy report was approved by Cabinet.
- 10.2 In July 2018 the report 'Public Spaces Protection Orders review' was approved by Cabinet.
- 10.3 In July 2018 the report 'Public Spaces Protection Orders variation' was approved in principle by the Public Protection and Licensing Committee.
- 10.4 In January 2019 the report 'Public Spaces Protection Order Public Consultation Update' was approved by the Public Protection and Licensing Committee.

11. List of Appendices

- 11.1 Appendix 1: Public Spaces Protection Order Newcastle Town Centre (Legal Order)
- 11.2 Appendix 2: Public Spaces Protection Order Queen Elizabeth Park (Legal Order)

11.3 Appendix 3: Public Spaces Protection Order Public (PSPO) Consultation 2018

11.4 Appendix 4: Public Spaces Protection Order Public (PSPO) Consultation March 2019

12. Background Papers

12.1 None