

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

Report for Public Protection and Licensing Committee – June 2022

Title: Public Space Protection Order Public Consultation Update

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Portfolios: **Community Safety and Wellbeing**

Ward(s) affected: All

Purpose of the Report

This report is to;

- Provide a draft copy of the two revised Public Space Protection Order (PSPO) for the Town Centre and Queen Elizabeth Park and to gain support from the committee to initiate a 6 week public consultation.

Recommendations

That the Public Protection and Licensing Committee considers the content of this report and gives approval for Officers at the Council to initiate public consultation for the two proposed PSPO's at the below 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 Appendix 1 and 2 for further information.
- The Committee is required to consider agreeing to the conditions of the order so that a formal consultation can be initiated.

1 Background

- 1.1 A Public Space 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.

In 2019 the Committee agreed to adopt two PSPO's that covered Newcastle Town Centre and Queen Elizabeth Park. On the 26th May 2022 those orders lapsed and we now need to consider the importance of having such like orders in place, the benefits of such orders, and whether the conditions included in Appendix 1 and 2 of this report are of the agreement of the committee.

Since the previous PSPO's were adopted in the town centre, we have been hit with a global pandemic. Therefore we need to consider this when we look at the number of breaches below:

- 2 in 2019
- 3 in 2020
- 3 in 2021
- 0 in 2022

From consultations that have been undertaken with Staffordshire Police we are able to provide the following statistics for in and around the town centre.

- Decrease of 1% in anti-social behaviour
- Increase of 15% in fireworks nuisance
- Increase of 33% in Begging and Vagrancy
- Increase of 35.5% in Rowdy and inconsiderate behaviour
- Decrease of 21% street drinking
- Decrease of 18% for drug related offences.
- Increase in public order offences by 69%
- Increase in violent crime by 72%
- Increase in Criminal Damage by 49%

ASB statistics from the Borough Council –

- 2018/2019 – Total ASB cases 456 – town centre related ASB 109
- 2019/2020 – total ASB cases 342 – town centre related ASB 67
- 2020/2021 – total ASB cases 461 – town centre related cases 254
- 2021/2022 – total ASB cases 587 – town centre 254
- 2022/2023 to date ASB cases 279 – town centre 198

The conditions in Appendix 1 and 2 will look to cover a range of behavioural issues that we believe are impacting on the town centre and Queen Elizabeth park. We are looking for support to conduct a 6 week consultation period on the proposed conditions. A report will then be drafted to be returned to committee with any necessary changes to be made with the draft order. We will then look to undertake a further 6 week consultation for the final proposal for the PSPO's. This will be followed with a return to the committee to express the results of the second consultation whereby a decision will be made whether to adopt the proposed Order's at this point.

- 1.2 Failure to comply with either a prohibition, or requirement stated within the order is a 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). To coincide with this, we are currently looking at the legal frame work to extend the authorisations of those who will be able to enforce the PSPO to include the Mobile Multi Function Team and PCSO's from Staffordshire Police.
- 1.3 The main issues in Newcastle-under-Lyme Town Centre have previously been highlighted as street drinking, drug taking, aggressive and/or persistent begging,

general anti-social behaviour and vandalism/defacement of property. We are now looking to reintroduce prohibitions to take this behaviour.

- 1.4 The boundaries for the exclusion zones whereby the proposed PSPO's will be situated will remain the same as the former PSPO's in place. This included the Newcastle Town centre and Queen Elizabeth Park areas as shown in Appendix 1 and 2.

2. Proposed Prohibitions

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 within the Exclusion Zone.
2. Engaging in behaviour likely to cause harassment, alarm or distress within the Exclusion Zone. Examples include, but are not limited to the following activities:
 - a. 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.
 - b. Being verbally abusive to any other person within the Exclusion Zone.
 - c. Using or threatening to use violence against any other person within the Exclusion Zone.
 - d. Having in their possession open cans, bottles or other unsealed receptacles containing alcoholic beverages (including empty receptacles) within the Exclusion Zone.
 - e. Carrying out any form of graffiti on any surface within the Exclusion Zone.
3. Failing to cease to consume alcohol and/or surrender alcohol when requested to do so by a police officer or other authorised person.
4. Not to consume alcohol within the exclusion zone unless within a licenced premises or within a designated area subject to a street traders licence.
5. Ingesting, inhaling, injecting, smoking or otherwise using intoxicating substances including novel psychoactive substances within the Exclusion Zone.
6. Persistent and aggressive begging, causing obstruction, harassment and threatening behaviour, which could cause intimidation.
7. Failing to deposit litter of any form in any area other than in a designated receptacle.
8. Not to urinate / defecate in public view.

4. Recommendations

- 4.1 It is recommended that the Public Protection and Licensing Committee approve the draft Public Space Protection Orders for both Newcastle Town Centre and Queen Elizabeth Park to allow us to undertake a formal public consultation.

5. Outcomes Linked to Corporate Priorities

- 5.1 The Council Plan outlines a priority to create two vibrant town centres in Newcastle and Kingsgrove where everyone can live, work, shop, study and spend their leisure time.

We want our town centres in Newcastle and Kidsgrove to be the vibrant and successful centres of life in the borough. We want to ensure that they have the right retail, public service, leisure, cultural, business and residential facilities that work for local residents and attract visitors and businesses to the town centres.

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.
- 6.2 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 Town Centre and Community management, Legal, 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 Space Protection Orders review' was approved by Cabinet.
- 10.3 In July 2018 the report 'Public Space Protection Orders variation' was approved in principle by the Public Protection and Licensing Committee.
- 10.4 In January 2019 the report 'Public Space Protection Order Public Consultation Update' was approved by the Public Protection and Licensing Committee.

11. List of Appendices

- 11.1 Appendix 1: Public Space Protection Order Newcastle Town Centre (draft Order)
- 11.2 Appendix 2: Public Space Protection Order Queen Elizabeth Park (Draft Order)

12. Background Papers

- 12.1 None