

Portfolio Holder decision

Report Title: Public Space Protection Order Reviews

Portfolio Holder: Cllr Mick Warren

Senior Officer: Jill Broomhall – Director of Adult Social Care

1. Report Summary

- 1.1. The purpose of this report is to set out the circumstances regarding the need to review a number of existing Public Space Protection Orders (PSPOs) and to discharge the Designated Public Place Orders (DPPOs) within Cheshire East Borough Council.

2. Recommendations

- 2.1. That Portfolio Holder for Communities allows Designated Public Space Orders (DPPOs), which automatically became PSPOs under Section 75 of the Anti-Social Behaviour, Crime and Policing Act 2014 to lapse on 20th October 2020.
- 2.2. That Portfolio Holder for communities approve a consultation exercise be undertaken to review existing Public Space Protection Orders (PSPO's) for alleygates, Dog Fouling and Dog Control and an order in Poynton.
- 2.3. The Portfolio Holder for Communities approve consultation to make PSPOs if the statutory conditions are satisfied but that PSPOs are not sought unless there is evidence to support their introduction.

3. Reasons for Recommendations

- 3.1. The Criminal Justice and Police Act 2001 enables Local Authorities to evidence, consult and implement DPPOs to give Police and enforcement officers' additional powers to deal with anti-social behaviour fuelled by alcohol in public areas. The DPPO enabled officers to confiscate alcohol where there was, or was likely to be associated anti-social behaviour.

- 3.2. Under Section 75 of the Anti-Social Behaviour, Crime and Policing Act 2014, DPPOs automatically became PSPOs on 20th October 2017 without the need to carry out the statutory requirements for consultation etc to make a new PSPO.
- 3.3. PSPOs are a Local Authority power which is supported at a local level by the police through consultation.
- 3.4. Following consultation with the Police, there is insufficient evidence to support the need for continuing a PSPO which was formerly a DPPO.
- 3.5. Following the introduction of the 2014 Act Cheshire East Council has been proactive in supporting communities having implemented a number of PSPOs across the Borough and the following orders are now subject to review:-
- Gating Orders
 - Dog Fouling and Control
 - Poynton Sport Club
- 3.6. A requirement of the Act is for The Council to review its existing PSPOs within a three year period. This is achieved through a consultation process, the outcomes of which will determine whether to extend, vary or discharge or simply to allow to lapse, those orders.
- 3.7. The introduction of PSPOs within the 2014 legislation is based on proportionality and evidenced led enforcement. PSPOs are designed to focus on specific and actual problems as opposed to blanket bans.
- 3.8. Cheshire East Council has in place a robust PSPO policy and before making a PSPO The Council must consult with the Police and community representatives underlining the importance of local consultation, accountability and transparency in decision making.

4. Other Options Considered

- 4.1. The existing PSPOs cannot be extended, varied or discharged without formal consultation.

5. Background

- 5.1. The Highways Act (Gating Orders) (England) Regulations 2006 came into operation on 1 April 2006 and allowed for the installation of gates on the highway to address anti-social behaviour (ASB), reduce the number of household burglaries and reduce other incidents of criminality. Since that

time Cheshire East Council has introduced a number of Gating Orders mainly across areas of Crewe with the exception of one in Middlewich and a further Order Macclesfield.

- 5.2. The Anti-Social behaviour, Police and Crime Act came into force in October 2014 and introduced streamlined tools and powers to address ASB. By virtue of section 75 (2) within 3 years of the commencement of the Act (that is by 1st October 2017) all existing gating orders across Cheshire East automatically transitioned into Public Space Protection Orders (PSPOs).
- 5.3. The details relating to these changes and copies of the Gating Orders were made available on the Cheshire East Website for information.
- 5.4. The legislation stipulates Local Authorities must review any existing PSPOs within a three year period and therefore Gating Orders in Cheshire East which became PSPOs following the 2014 Act now require review before October 2020.
- 5.5. The Council has been utilising alleygates as an effective method to reduce crime and anti-social behaviour since 2006 and the 17 schemes of Gating Orders have been made across the borough over this time.
- 5.6. The schemes were implemented using powers from the Highways Act to close back streets and remove their status as a highway.
- 5.7. A PSPO may authorise the installation, operation and maintenance of barriers or gates to restrict the public use of the highway either at certain times of the day or night or at all times.
- 5.8. The Council holds an annual budget to ensure the upkeep of the alleygates and ensure the gates, locks and hinges are maintained in good working order.
- 5.9. The Council also has in place a key replacement scheme for residents and landlords of those properties in locations where alleygates are situated to ensure their access at all times.
- 5.10. Public Spaces Protection Orders (PSPOs) are designed to stop individuals or groups committing anti-social behaviour (ASB) in a public space where behaviour.
 - Is having, or is likely to have a detrimental effect on the quality of life of those in the locality
 - Is persistent or continuing in nature; and
 - Is unreasonable
 - Justifies the restrictions imposed by the notice

- 5.11. The Council may make a PSPO if it is satisfied on reasonable grounds that the following two conditions are met:
- That activities carried on in a public place have had or will have a detrimental effect on the quality of life of those in the locality, and
 - The effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed by the notice. Councils can use PSPOs to prohibit specified activities, and/or require certain things to be done by people engaged in particular activities, within a defined public area. PSPOs differ from other tools introduced under the Act as they are council-led, and rather than targeting specific individuals or properties, they focus on the identified problem behaviour in a specific location.
- 5.12. Councils can use PSPOs to prohibit specified activities, and/or require certain things to be done by people engaged in particular activities, within a defined public area, as identified in bullet points in 5.11
- 5.13. The legislation provides for restrictions to be placed on behaviour that apply to everyone in that locality (with the possible use of exemptions). Breach of a PSPO without a reasonable excuse is an offence.
- 5.14. Penalty on breach is a criminal offence. Authorised officers can issue a Fixed Penalty Notice (FPN) of up to £100 or if convicted in a court the penalty may be a fine a maximum of £1000.00
- 5.15. An interested person may challenge the validity of a PSPO in the High Court within 6 weeks of an order being made.
- 5.16. On the 16th October 2017 Cabinet approved a report in relation to the request for a PSPO for Dog Fouling and Dog Control which was duly introduced on the 1st November 2017. The Borough Wide PSPO permitted to take actions against individuals who fail to clean up after their dogs on publicly accessible land and dogs not properly supervised and kept under control.
- 5.17. As documented in the initial cabinet report following approval of the PSPO , further reviews and consultation would take place for consideration of amending/varying the PSPO to possibly include further prohibitions around dog control subject to the appropriate evidence being obtained..
- 5.18. Whilst this is still the case, it is a minimum requirement for a review of the existing PSPO prior to November 2020 to consult and give consideration to an extension of the order.

5.19. On the 11th April 2017 Cabinet approved a report in relation to a PSPO to tackle anti-social behaviour at Poynton Sports Club and the PSPO was duly introduced on the 1st May 2017.

5.20. In accordance with the legal requirements this PSPO now required a review to consider either an extension, varying or discharging of the order.

6. Implications of the Recommendations

The Council has a legal responsibility under the Anti- Social Behaviour, Crime and policing Act 2014 to carry out a formal consultation process to review existing PSPOs within the Borough within a period of 3 years.

6.1. Legal Implications

6.1.1. It is essential that due legal process is followed with regards to the reviewing of these orders and legal advice would be sought prior to the consultation processes being undertaken.

6.2. Finance Implications

6.2.1. All costs relating to the consultation exercises including preparation, administration and analysis to be covered within existing service budgets.

6.2.2. There are budget considerations in relation to previous signage erected across areas of Cheshire East Council providing information in relation to Designated Public Place Orders (DPPOs) which will require their removal.

6.2.3. Internal costs accrued for the services of the Business Intelligence Department are likely to be negligible.

6.3. Policy Implications

6.3.1. Support the Councils Enforcement Policy.

6.4. Equality Implications

6.4.1. A Quality Impact Assessment will be completed prior to any consultation in respect of PSPOs.

6.5. Human Resources Implication

6.5.1. A resource has been identified to undertake a bespoke piece ahead of the consultation though it is to be noted they are not part of their normal duties.

6.6. Risk Management Implications

6.6.1 No implications for risk management.

6.7. Rural Communities Implications

6.7.1. Consultation in relation to the review of the Dog fouling and dog control PSPO will be consistent with the previous consultation exercise.

6.8. Implications for Children & Young People/Cared for Children

6.8.1. There are no implications relating to PSPOs for those under the age of 18 years.

6.9. Public Health Implications

6.9.1. There are no direct implications for public health.

6.10. Climate Change Implications

6.10.1. There are no implications for Climate Change.

7. Ward Members Affected

7.1. All Wards and Members

8. Consultation & Engagement

- 8.1. The Council will undertake the necessary consultation prescribed by S.72 Anti-Social Behaviour, Crime and Policing Act 2014. Including with those residents who reside in areas subject to an existing PSPO (formerly Gating Orders).
- 8.2. The Council will undertake consultation consistent with the initial consultation exercise completed ahead of when the Dog Fouling and Dog Control Order was first introduced.
- 8.3. The proposal is for all consultations relating to the existing PSPOs be carried out from April 2020 for a minimum period of one month.
- 8.4. Following the completion of the consultations, analysis will be provided and a further Cabinet/Committee report will be written to advise on outcomes and recommendations.

9. Access to Information

- 9.1. Information relating to The Councils PSPO Policy and copied of the PSPOs referenced in this report are available on the Cheshire East Website.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

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