

Cabinet

4th July 2017

Name of Cabinet Member:

Cabinet Member for Policing and Equalities - Councillor A Khan

Director Approving Submission of the report:

Deputy Chief Executive (Place)

Ward(s) affected:

All

Title: Proposed City Wide Public Space Protection Order

Is this a key decision?

No

Executive Summary:

This report seeks permission to publically consult on the creation of a Public Space Protection Order (PSPO) that will replace the current Designated Public Spaces Protection Order (DPPO) in relation to public drinking of alcohol which expires in October 2017.

In addition, it is also proposed that the PSPO will have conditions within it to address the unauthorised use of 'off-road' motorbikes and other specific mechanically propelled vehicles in the city. It will also seek to control the use of Nitrous Oxide (laughing gas) in public spaces.

Recommendations:

The Cabinet is recommended to:-

- (1) Approve the public consultation on a new City-wide Public Space Protection Order to address the drinking of alcohol in public places and the use of 'off-road' motor bikes and other specific mechanically propelled vehicles in the city. We are also requesting that officers are granted powers to seize canisters of nitrous oxide from individuals where it is felt their use will contribute towards anti social behaviour.
- (2) Request that a further report is brought back to the Cabinet with the findings of the public consultation.

List of Appendices included:

Appendix 1 - Proposed Draft Order.

Appendix 2 – Impact Statements

Appendix 3 – Proposed Consultation Questions

Background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Proposed City Wide Public Space Protection Order

1. Context (or background)

- 1.1 The creation of a new City Wide Public Space Protection Order (PSPO), provides the opportunity to address three separate issues in Coventry: Public drinking, the use of 'off-road' motorbikes and the inhalation of Nitrous Oxide (laughing gas).
- 1.2 The consumption of alcohol in public places is currently and successfully controlled by the Designated Public Place Order (DPPO).
- 1.3 Legislative changes mean that this DPPO will expire in October this year and if the city wishes to maintain these powers, then they will need to be incorporated into a Public Space Protection Order.
- 1.4 Specific mechanically propelled vehicles (MPV) usage, which include 'off road motorbikes' is a common problem across the City, as demonstrated in the attached Police data (Appendix 2). Pursuing individuals, whilst on the vehicles, is also dangerous for all parties concerned.
- 1.5 Identification of riders of vehicles whilst in motion is also problematic. Often their faces will be obscured by helmets and the vehicles don't always have identifying characteristics. The Police currently have powers to deal with these issues, but they have not proved to be totally effective.
- 1.6 This order will allow people to be challenged for just being in possession of their bikes in public areas, as the assumption is if there's no indication they're being used lawfully they are likely to be causing nuisance. The bike may be on the ground alongside them in a park, or being wheeled home after using them in a nuisance manner, as many bikers do not want to annoy their immediate neighbours for fear of being reported.
- 1.7 Nitrous Oxide (Laughing Gas) is recognised as a public health risk, this is outlined in appendix two from Public Health. Its use is particularly prevalent amongst young people. Its use is also connected with Anti Social Behaviour and the empty canisters left both litter areas and pose a risk to Council employees when they get entangled in grass cutting machinery.

2 Options considered and recommended proposal

- 2.1 **Replacement for the DPPO.** The Council could decide to let the order lapse, and then address any issues that may then occur in a reactive manner and in a localised fashion. This isn't recommended, we believe to do this would be resource intensive in monitoring and addressing different parts of the City.
- 2.2 The Council could potentially introduce a Public Space Protection Order (PSPO) under the Anti-Social Behaviour, Crime and Policing Act 2014 to control the public consumption of alcohol (away from licensed premises). As there have been controls on public drinking in the City for nearly 30 years we do not have a strong evidential basis demonstrating problems with public drinking. However, the legislation only requires us to be satisfied that without controls it is "likely" that issues would occur without controls in place. We would therefore, recommend that these powers are renewed in the proposed new order.
- 2.3 The current perceived weakness in the existing DPPO, is that whilst officers can seize opened alcoholic drinks, they cannot take unopened drinks. It is therefore proposed to extend the current powers so that officers can use their discretion to seize all alcoholic

drinks possessed by that person. For this aspect of the order, officers that will have the authority to enforce will include Police Officers and Council Enforcement Officers, including BID officers.

- 2.4 **Nitrous Oxide Canisters (Laughing Gas).** We propose classifying Nitrous Oxide canisters in a similar fashion to alcohol, and that officers are given powers to seize and dispose any canisters found in a person's possession. For this aspect of the order, Officers that will have the authority to enforce will include Police Officers and Council Enforcement Officers
- 2.5 **Addressing Off Road Bikes.** We propose to make it an offence to be in possession of a "mechanically propelled vehicle" We would propose to make it an offence if the following criteria applies;
- 2.5.1 The person doesn't have, appropriate insurance to use the vehicle on public roads, or they do not have the expressed permission of the landowner. If a landowner permits use for off road biking they would be subject planning and noise nuisance legislation where applicable.
- 2.6 The only exception will be if someone is transporting the bike to a clearly identified van or trailer for onwards transportation. There are currently no official, commercial sites for off road biking in the City, therefore if someone is simply wheeling an off road bike around streets, or sitting alongside it in a park, it is reasonable to assume it has been used, or will be used in a nuisance manner and will therefore be subject to this proposed Order. For this aspect of the order whilst Council enforcement officers will have powers it is thought the Police are most likely to be enforcing.

The proposed order to be implemented following consultation can be found in Appendix one attached to this report.

The Cabinet is therefore recommended to:

(1) Approve the public consultation on a new City-wide Public Space Protection Order to address the drinking of alcohol in public places and the use of 'off-road' motor bikes and other specific mechanically propelled vehicles in the city. We are also requesting that officers are granted powers to seize canisters of nitrous oxide from individuals where it is felt their use will contribute towards anti-social behaviour.

(2) Request that a further report is brought back to the Cabinet with the findings of the public consultation.

3 Proposed Consultation

- 3.1 It is intended that the main method of consultation in relation to this order will take the form of an online city wide consultation, provision will be made for those who are not online, or have difficulty attending a library or similar resource where they can access online material. In addition direct consultation with identified key partners and agencies concerned will also happen.
- 3.2 Groups and agencies that will be consulted will include the following (this is indicative, not definitive and if groups are identified they will be included as part of the process).

Public Health
The Recovery Partnership
West Midlands Police (Licensing and Neighbourhood Policing)
West Midlands Fire Service
Parks and Leisure Services

Whitefriars Housing and other Housing Providers
Coventry Older Voices
Coventry Business Improvement District (BID)
Motorbike User groups
Licensed Victuallers Association (or industry equivalent)

- 3.3 Impact statements were also obtained in advance to support the initial consultation from key partners. Statements were received from Public Health and West Midlands Police in relation to alcohol and off road bike issues respectively. These can be found in Appendix 2

4 Timetable for implementing this decision

Once approved there will need to be a draft order publicised at the site for up to 30 days and notification published on appropriate Council websites. Following that process the order can be implemented and operational.

5 Comments from Director of Finance and Corporate Services

5.1 Financial implications

The costs of enforcing this legislation will be met from within existing resources.

5.2 Legal implications

Breach of such an order could result in a person being issued with a fixed penalty notice up to the value of £100. Should someone continually breach or if the breach is felt to be serious enough then the matter could be referred to court where an increased fine or custodial sentence could be passed

6 Other implications

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

Crime and Disorder

Tackling crime and anti-social behaviour through partnership working is central to the delivery of the Community Safety Plan and Strategic Assessment 2016/17.

6.2 How is risk being managed?

Officers from several agencies continue to monitor the area.

6.3 What is the impact on the organisation?

None

6.4 Equalities / EIA

N/A

6.5 Implications for (or impact on) the environment

The purpose of taking action to address behaviours in the city should increase usage of public spaces for legitimate purposes, in an attempt to improve the environment and wellbeing of the community.

6.6 Implications for partner organisations?

The multi-agency action plan outlines the individual and collective commitments from agencies to respond to the issues raised.

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