
Cabinet

9th July 2024

Name of Cabinet Member:

Cabinet Member for Policing and Equalities - Councillor A S Khan

Director Approving Submission of the report:

Director of Law and Governance

Ward(s) affected:

All

Title: Proposed Consultation and Amendments to the City-Wide Public Space Protection Order

Is this a key decision?

No – although this affects all wards in the City, this report is only requesting permission to consult

Executive Summary:

This report seeks permission to consult on a new City-wide Public Space Protection Order (PSPO) as the previous Order has now expired.

The new PSPO has 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 drinking of alcohol in public spaces.

Under the Anti-Social Behaviour Crime and Policing Act 2014 Local Authorities must carry out a statutory consultation before implementing a PSPO. This report seeks permission to carry out a consultation to enable the authority to gain a full understanding of members of the public and key stakeholders that would be affected by the order.

Recommendations:

Cabinet is recommended to:

- 1) Authorise a 4-week citywide consultation to commence on 19th July 2024 to 16th August 2024.
- 2) Request a future report setting out the consultation responses received, and the proposed draft citywide Public Space Protection Order.

List of Appendices included:

Appendix 1 – Proposed Consultation and Engagement Plan

Appendix 2 – Timeline of Order

Appendix 3 – Operation Prosperity Police Document

Appendix 4 – Draft Equality Impact Assessment

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 Consultation and Amendments to the City-Wide Public Space Protection

1. Context (or background)

- 1.1 Under sections 59-75 of the Anti-social Behaviour, Crime and Policing Act 2014, local authorities have powers to make PSPOs.

The Council can only make a PSPO when it is satisfied on reasonable grounds that the activities carried out or likely to be carried out in a public place have a detrimental effect on the quality of life of those in the area and are persistent, continuing and unreasonable. The Council would also need to be satisfied that the restrictions imposed were justified.

- 1.2 Within Coventry, the previous City-Wide Public Space Protection Order addressed the following issues:

- The drinking of alcohol in public places.
- Consumption/possession of Nitrous Oxide canisters.
- Nuisance use of Mechanically Propelled Vehicles.

Under the Anti-social Behaviour Crime and Policing Act 2014, Local Authorities are required to review the conditions of the Order before renewing the Order.

- 1.3 The previous Order had a provision regarding Nitrus Oxide (Laughing Gas). There has recently been a change in national legislation and the use and possession of Nitrous Oxide for anti-social purposes is now a criminal offence and as such there is not a need for us to make such a provision in this Order.
- 1.4 The creation of the City-Wide PSPO, provides for the continued use of powers to address the following issues in Coventry: Public consumption of alcohol and the use of 'off-road' motorbikes.
- 1.5 It is recognised that both behaviours in public spaces is closely linked with Anti-Social Behaviour (ASB).
- 1.6 The Order will allow authorised officers to order persons consuming alcohol in public places to stop drinking and also permit them to confiscate or dispose of opened and unopened cans or bottles.
- 1.7 We do not consider ourselves to have a significant public order issue with the consumption of alcohol in public spaces, however we believe this is because we have had measures in place to allow officers to address any issues that may arise.
- 1.8 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 3 to the report). Pursuing individuals, whilst on the vehicles, is also dangerous for all parties concerned.

- 1.9 Identification of riders of vehicles whilst in motion is 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 proved to be limited in their effect.
- 1.10 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 that 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.

Options considered and recommended proposal

2.1 There are two options to consider:

- a) Take no action.
- b) Authorise a consultation and creation of the proposed Order.

2.4 The preferred option is b) and the main reasons are as follows:

Addressing Off Road Bikes

- The Order makes it an offence to be in possession of a "mechanically propelled vehicle". The PSPO states that it is an offence if the following criteria applies:
 - The MPV is not legally taxed and insured and/or permission from the landowner where the MPV is located has not been granted.
- Without the Order off road bikes would have to be dealt with in a reactive manner. more resources would be required in monitoring and addressing the issue across the city.
- Without the Order, being in a park and in possession of an off-road bike, but not being seen to be riding it would not be an offence, and the Police could not take action, even though the likelihood of the bike not having been ridden to the park, or ridden in the park by the owners is very unlikely.
- If we make it clear that permission is not granted by the Council for these vehicles to be ridden on Council owned land, hopefully less people will consider buying these vehicles and the problem will lessen over time.

The Drinking of Alcohol in Public Places.

There have been controls on public drinking in the city for over 30 years.

- The British Crime Survey reports and local statistics endorse that drunk or rowdy behaviour in the public place is a problem in local areas. PSPOs are a useful tool that can help the police deal with such alcohol misuse problems in public spaces.

- Without the Order Police would have to wait for an incident to escalate and become a crime or public order matter to intervene.

3 Proposed Consultation

- 3.1 Under the Anti-Social Behaviour Crime and Policing Act 2014, Local Authorities are required to undertake a statutory consultation. They must consult with the Local Chief of Police, the Police Crime Commissioner, owners and occupiers of land within the affected area where reasonably practicable, and appropriate community representatives.
- 3.2 A city wide 4-week consultation will commence on 19th of July 2024. A detailed consultation plan is attached in Appendix 1 to the report which sets out the approach to the consultation. This will use a mixed arrange of communication channels. The approach will also be informed by the Equality Impact Assessment. We will be looking to provide supplementary, appropriate information and statistics from key partners in Public Health and West Midlands Police as part of this consultation.
- 3.3 The results of the consultation will be presented at the Cabinet Meeting on 1st October 2024 along with the proposed final Order for approval.

4 Timetable for implementing this decision

- 4.1 The proposed timetable for the implementation the recommendation of this report is set out in Appendix 2 to the report.

5 Comments from the Director of Finance and Resources and the Director of Law and Governance

5.1 Financial implications

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

5.2 Legal implications

Under sections 59-75 of the Anti-social Behaviour, Crime and Policing Act 2104, local authorities have powers to make PSPOs.

The Council can only make a PSPO when it is satisfied on reasonable grounds that the activities carried out or likely to be carried out in a public place have a detrimental effect on the quality of life of those in the area and are persistent, continuing and unreasonable. The Council would also need to be satisfied that the restrictions imposed were justified.

Should anyone object to the granting of a PSPO they would have to make a High Court application within 6 weeks of the order being granted.

For that appeal to be successful they would have to show that the Council did not have the power to make the order, as the issue covered has not been demonstrated, usually by empirical evidence, to be a significant enough issue to

justify the restriction. The other grounds for the appeal would be to demonstrate that the consultation process was inadequate.

PSPOs can only apply to public places. This means any place to which the public, or and sections of the public, on payment or otherwise, have access to as of right or by virtue of express or implied permission.

The Council must comply with the Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 by publishing the extended Order on its website and by erecting notices on or near the affected land sufficient to draw the attention of the public to the face that the order has been extended and the effect of this.

The Council will decide whether it is appropriate to issue a fixed penalty notice for any breach of the PSPO witnessed by an enforcing officer. In line with other PSPOs in Coventry, any Fixed Penalty Notice for non-compliance with a PSPO will be set at £100 reduced to £60 if paid within 14 days. If the Fixed Penalty Notice is not paid, court proceedings can be initiated to prosecute for the offence of failing to comply with the PSPO where the maximum fine is currently £1000 (level 3 on the standard scale). Following conviction, the Council could apply for a Criminal Behaviour Order which can contain both prohibitions and positive requirements.

6 Other implications

6.1 How will this contribute to the One Coventry Plan? (<https://www.coventry.gov.uk/strategies-plans-policies/one-coventry-plan>)

The One Coventry Plan 2022 - 2030 takes forward the main themes agreed by the Council in recent years. It reaffirms the Council's ambition of "Working together to improve our city and the lives of those who live, work and study here".

This ambition is driven through three corporate priorities which directly address the needs of the city:

- Improving outcomes and tackling inequalities within our communities
- Improving the economic prosperity of the city and regions
- Tackling the causes and consequences of climate change

The Citywide PSPO will impact on ASB and will contribute to

Priority 8 - Prevent and reduce crime, disorder, ASB and environmental issues that affect the quality of life in the city.

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

The report makes links to the Council's Equalities and Diversity Policies. A draft Equality Impact Assessment has been completed for this report and is attached at Appendix 3 to the report. The final version of the Equality Impact Assessment will be presented in the Cabinet Meeting on 1st October 2024.

6.5 Implications for (or impact on) climate change and 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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