
Scrutiny Co-ordination Committee
Cabinet

25th September 2024
1st October 2024

Name of Cabinet Member:

Cabinet Member for Policing and Equalities - Councillor AS Khan

Director Approving Submission of the report:

Director of Law and Governance

Ward(s) affected:

All

Title: Proposed Creation of a City-Wide Public Spaces Protection Order (PSPO)

Is this a key decision?

Yes - will have a significant effect on communities living or working in an area comprising 2 or more electoral wards

Executive Summary:

This report seeks authority to create a new city-wide Public Spaces Protection Order (PSPO) as the previous Order had expired.

The new PSPO has conditions within it to address the unauthorised use of offroad motorbikes and other specific mechanically propelled vehicles (MPV) 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. A period of public consultation took place between 22nd July and 19th August 2024.

Recommendations:

Scrutiny Co-ordination Committee is recommended to:

- 1) Consider the report and submit any comments/recommendations to Cabinet for consideration at their meeting on 1st October 2024.

Cabinet is recommended to:

- 1) Consider any comments/recommendations received from Scrutiny Co-ordination Committee following their consideration of the report at their meeting on 25th September 2024.
- 2) Note the results of the consultation and grant the creation of a city-wide PSPO to commence from 2nd October 2024 for a period of three years.
- 3) Request that the operation of the PSPO should be subject to the oversight of Scrutiny Co-ordination Committee as appropriate, as with other PSPO's.

List of Appendices included:

Appendix 1 – Proposed Draft Order
Appendix 2 – Map showing the area covered by the Order
Appendix 3 – Responses from Key Partners
Appendix 4 - Consultation Responses
Appendix 5 – Equality Impact Assessment

Background papers:

None

Has it been or will it be considered by Scrutiny?

Yes – Scrutiny Co-ordination Committee 21st August 2024 (Consultation) and 25th September 2024 (Report)

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 Creation of a City- Wide Public Spaces Protection Order (PSPO).**

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 citywide PSPO addressed the following issues:

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

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 Nitrous 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 This Order will allow individuals to be challenged when consuming alcohol in a public place without the need for officers to wait for an incident to escalate and become a crime or public order matter to intervene.
- 1.8 Specific MPV usage, which include off road motorbikes are 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) Implement the new Order.

The preferred option is b) Implement the new Order, 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 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, for example, 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. However, the likelihood of the bike not having been ridden to the park, or ridden in the park by the owners in a nuisance manner is very unlikely;
- If made it is 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; and
- It allows agencies to be proactive rather than having to wait for an issue to arise. There is nowhere to lawfully ride off road bikes in the city, to our knowledge, unless it is on entirely private land.

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;
- The Community Safety team work closely with other parts of the Council and its partners to respond to ASB quickly taking preventative and enforcement actions as required. However, PSPOs affords a more proactive approach in the use of PSPO's to address issues citywide and in specific geographical areas such as the city centre;
- The most effective method to stop street drinkers congregating is the ability to confiscate open and unopened alcohol in their possession. Experience of the previous city-wide Order shows that street drinkers will not gather in areas where they are likely to experience this. The implications of taking alcohol off people that are alcohol dependent is noted in the Equality Impact Assessment and comments from Public Health;
- Alcohol related ASB is a prominent issue reported to the police as detailed in their response in Appendix 3 of this report. Given the high number of reports, it is reasonable to conclude that a city-wide PSPO controlling street drinking would afford officers to be proactive with enforcement and have the desired effect to reduce the incidents of ASB; and
- Given that alcohol related ASB has continued to be a problem it would be considered necessary to implement this particular restriction for the next three years, otherwise areas will likely see an increase in this ASB impacting the quality of life of those in the locality.

3 Results of public 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. The Police and Crime Commissioner was consulted with but as of the time of publishing this report a response hasn't been received. The response from West Midlands Police can be found in Appendix 3 of this report.
- 3.2 A city wide 4-week consultation commenced on 22nd July 2024.
- 3.3 The consultation was mainly conducted online however paper copies of the consultation were made available and in person interviews were also conducted. Appendix 4 of the report provides a full summary of the questions and responses received.
- 3.4 294 responses were received with the largest respondents being a mix of local residents and people who worked in the area, both groups making up 45% of respondents.
- 3.5 A large percentage of respondents believed public drinking and off road bikes were issues in the city and over 90% (97% in the case of public drinking/ 94% in the case of off road bikes) supported the creation of the Order to give officers powers to address them.

- 3.6 Consultation results were presented to Scrutiny Coordination Committee on 21st August 2024.
- 3.7 The proposed city wide PSPO demonstrates the Council's commitment to listening to its residents, partners and communities and to take action to address issues that are important to them.

4 Timetable for implementing this decision

- 4.1 This order will be implemented at the earliest possible available date.

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 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.

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 new Order on its website and by erecting notices on or near the affected land sufficient to draw the attention of the public to the fact 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 (FPN) for any breach of the PSPO witnessed by an enforcing officer. In line with other PSPOs in Coventry, any FPN for non-compliance with a PSPO is currently

£100 reduced to £60 if paid within 14 days. If the FPN is not paid, court proceedings can be initiated to prosecute for the offence of failing to comply with the PSPO. 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 the Regulatory Services Operational Plan 2024/25:

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. An Equality Impact Assessment has been completed for this report and is attached at Appendix 5 to this report.

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 responses from key partners in Appendix 3 to the report reflects the joint working amongst departments and organisations to address the matters in hand.

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