

Subject: Banbury Public Spaces Protection Order

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<p>Background and Reason for Briefing Note</p>	<p>This paper provides a briefing to committee members on the Public Spaces Protection Order for Banbury town centre in order to seek members' views in advance of a formal decision on the renewal of this order to be made by the Executive in November.</p>
<p>1.0 Introduction</p>	
<p>1.1 In November 2016 the Council's Executive agreed to introduce a Public Spaces Protection Order (PSPO) for Banbury Town Centre. The decision to make this Order was reached after a public consultation on the proposal during summer 2016. The Order came into effect on 1st December 2016 and expires on 31st November 2019.</p> <p>1.2 It is now necessary to decide whether the PSPO will be renewed or allowed to expire and therefore cease to have effect. If the order is to be renewed it is necessary to determine whether the scope of the order should be amended or remain as it is now.</p>	
<p>2.0 Report Details</p>	
<p>2.1 The Anti-social Behaviour, Crime and Policing Act 2014 introduced several new tools and powers for use by councils and their partners to address anti-social behaviour in their local areas. One of these powers was the ability for local authorities to issue a PSPO.</p> <p>2.2 PSPOs are intended to provide the means of preventing individuals or groups committing anti-social behaviour in a public space where the 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. The PSPO imposes conditions on the use of the area which apply to everyone.</p> <p>2.3 A PSPO restricts what people can do in an area and how they behave. As such it is important to ensure that any such restrictions are focussed on problem behaviours, are proportionate to the detrimental impact that the behaviour is having or could cause and are considered necessary to prevent it continuing, occurring or reoccurring. The restrictions and requirements included in a PSPO may be comprehensive or targeted on specific behaviours by particular groups and/or at specified times.</p> <p>2.4 A PSPO can be in force for any period up to a maximum of three years and can be extended for a further period of up to 3 years at any time before expiry. The PSPO can only be extended if it is considered necessary to prevent the original behaviour from occurring or reoccurring. To vary the order, for example to introduce new restrictions on behaviour or to extend the area covered by the order, the council is required to conduct further consultation with relevant parties on the proposed variation.</p>	

- 2.5 The PSPO can be enforced by a police officer, a police community support officer, designated council officers and employees of other delegated organisations. A breach of the order can be dealt with through a fixed penalty notice (up to £100 penalty) or by prosecution (with a penalty of a level 3 fine of up to £1000 on conviction, or £500 upon conviction for consuming alcohol in breach of the Order).

3. The Current Public Spaces Protection Order

- 3.1 The Banbury Town Centre PSPO introduced in 2016 contains 3 restrictions on behaviour.
- Consumption of alcohol or possession of an open container of alcohol in the open air in the restricted area.
 - Begging in the restricted area.
 - Sleeping rough (defined as sleeping in the open air or under a temporary structure) in the restricted area.
- 3.2 A copy of the full order is included in appendix 1 and a map showing the restricted area is included in appendix 2.
- 3.3 The PSPO was introduced following an increase in reported complaints and problems relating to begging, drunkenness and rough sleeping in Banbury. A full public consultation was carried out prior to introducing the order. The outcome of the consultation was:
- 90% of those responding supported a PSPO to stop anti-social drinking.
 - 84% of those responding supported a PSPO to stop begging.
 - 79% of those responding supported a PSPO to stop rough sleeping.

4. Enforcement of the Order

- 4.1 The majority of enforcement action to support the order is informal. Informal enforcement includes engaging with people who may be in breach of the order in order to seek a voluntary change in behaviour without the need for formal enforcement action to be taken. This is consistent with our published enforcement policy which states that “The Council is committed to creating an environment where businesses, and other individuals and organisations, who ask for advice about non-compliance, or where they show a willingness to resolve the non-compliance, can be confident that this will not trigger enforcement action”.
- 4.2 In relation to rough sleeping the PSPO provides a basis for housing officers, community wardens, outreach workers and the Police to engage with any individual who appears to be sleeping rough. Our approach to addressing rough sleeping in the town centre is a supportive one, seeking to assess the needs of the individual and provide advice and support to address those needs.
- 4.3 Following the commencement of the PSPO an educational approach was adopted during December 2016 to advise people about the effect of the order. During this month 31 people were spoken to regarding potential breaches of the order over 3 days of joint operations with the Police.
In 2017, a total of 83 people were warned regarding potential breaches of the order and 14 persistent offenders were issued with fixed penalty notices (FPNs).
In 2018 7 warnings and 1 FPN were issued for breaches of the order.
Up to and including August 2019, 8 warnings and 11 FPNs have been issued.
- 4.4 During the time in which the order has been in force, no FPN has been issued for rough sleeping.
- 4.5. In addition to the recorded enforcement data summarised above the council’s community

safety team and the Police will have taken informal action on potential breaches of the order which will not be recorded (e.g. asking someone to move when they are witnessed sitting on the ground in a known begging location but without any actual begging being witnessed).

5. Government Guidance on Rough Sleeping

- 5.1 In December 2017 the statutory guidance¹ on anti-social behaviour powers was amended in relation to rough sleeping. This guidance now states-
“Public Spaces Protection Orders should not be used to target people based solely on the fact that they are homeless or rough sleeping, as this in itself is unlikely to mean that their behaviour is having an unreasonably detrimental effect on the community’s quality of life which justifies imposing restrictions using a PSPO. Councils may receive complaints about homeless people, but they should consider whether the use of a Public Spaces Protection Order is the appropriate response. These Orders should be used only to address any specific behaviour that is causing a detrimental effect on the community’s quality of life which is within the control of the person concerned. Councils should therefore consider carefully the nature of any potential Public Spaces Protection Order that may impact on homeless people and rough sleepers.”
- 5.2 The use of PSPO powers by local authorities to address rough sleeping has been challenged by organisations such as Crisis and Liberty. The statutory guidance places an emphasis on tackling the problem behaviours that are having a detrimental impact on the local area and not using enforcement powers where the individual has little or no ability to change their circumstances.

6. Consultation and Proposals

- 6.1 We are currently consulting on the potential renewal of the Banbury town centre PSPO. It is proposed that any extension of the PSPO will be for a further three years. The consultation states that it is recognised that the inclusion of a prohibition on rough sleeping is more controversial as the act is often beyond the control of the individual. Therefore, we are proposing in the consultation to only include a prohibition on begging and drinking in the designated area if the PSPO is renewed. We are asking respondents for their views on whether rough sleeping is still a problem in the town centre and if they think it should still be included in the order if it is renewed.
- 6.2 The consultation on the renewal of the PSPO closes on 11th September. It is available on the council’s website and has been publicised by way of a press release and promotion on social media. A mailshot has been sent to all postal addresses within the PSPO area highlighting the consultation and two town centre engagement events have been arranged so members of the community safety team can speak directly with visitors to the town centre and town centre businesses. These engagement events are being supported by Thames Valley Police.
- 6.3 As part of the consultation process key stakeholders are being contacted direct to ensure they can respond to the consultation. This includes the Police, the Town Council and business representative groups.

7.0 Conclusion and Reasons for Recommendations

- 7.1 In November the Executive will be asked to decide whether to extend the Banbury town centre PSPO for a further 3 years. In reaching this decision the Executive will need to consider the outcome of the public consultation, the necessity of continuing with the order

¹ Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers. Statutory guidance for frontline professionals; *Home Office*, August 2019

and the proportionality of the restrictions it contains.

7.2 The views of the committee are sought in order to inform the Executive decision paper.

Completed by: Richard Webb, Assistant Director: Regulatory Services and Community Safety **Date: 23 August 2019**

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