

# **Cherwell District Council**

## **Executive**

**6 March 2023**

## **Consultation on a New Public Spaces Protection Order for Banbury Town Centre**

### **Report of Assistant Director Regulatory Services & Community Safety**

This report is public

#### **Purpose of report**

The Public Spaces Protection Order (PSPO) for Banbury town centre lapsed in December 2022. Following conversations with Thames Valley Police proposals have been developed for a revised PSPO for Banbury. This paper outlines those proposals and seeks agreement from the Executive to commence a public consultation on introducing a new PSPO for Banbury town centre.

The proposed PSPO will contribute towards the delivery of the council objective to “work with partners to reduce crime and antisocial behaviour” within the Healthy, Resilient and Engaged Communities priority. A reduction in anti-social behaviour in the town centre will also contribute towards the Enterprising Economy with Strong and Vibrant Local Centres priority. Tackling anti-social behaviour is also consistently identified as a priority in residents surveys.

#### **1.0 Recommendations**

The meeting is recommended to:

- 1.1 Agree that the Council will commence a public consultation on the introduction of a new PSPO for Banbury town centre as outlined in this paper.

#### **2.0 Introduction**

- 2.1 PSPOs are intended to provide a 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. A PSPO imposes conditions on the use of the area which apply to everyone.
- 2.2 In November 2016 the Council’s Executive agreed to introduce a Public Spaces Protection Order (PSPO) for Banbury Town Centre. This PSPO was reviewed in 2019 and a decision to renew the Order was made in December that year. A PSPO

expires after 3 years unless a decision is made to renew it and therefore the Banbury Town Centre PSPO ceased to have effect in December 2022.

2.3 Banbury Town Centre continues to be impacted by problems that fell within the scope of the previous PSPO. As such, the Council's Community Safety Team and Thames Valley Police would like to see a new PSPO introduced.

2.4 The Council's Community Safety Team has developed proposals for a new PSPO for Banbury Town Centre. These proposals have been developed in conjunction with Thames Valley Police, considering the nature of anti-social behaviour related problems in the town centre and the surrounding area and the potential role a PSPO could have in assisting us to address those problems.

### **3.0 Report Details**

3.1 The Banbury Town Centre PSPO introduced in 2016 contained 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 Following the review of the PSPO in 2019, the prohibition on rough sleeping was removed from the scope of the Order. The PSPO was otherwise renewed with the same geographic scope.

3.3 During 2022 internal discussions took place to consider whether the PSPO should be renewed again. These discussions identified some concerns about renewing the PSPO in the same form. In particular, it was noted that no enforcement action had been taken using of the powers provided by the Order since it had been renewed. This was due in part to the impact of the pandemic on town centre footfall and community safety priorities. However, it was also due to the prohibitions in the PSPO not being focussed on the harmful impact of the behaviours concerned leading to some lack of clarity about when enforcement action under the PSPO was appropriate.

3.4 A review of the Banbury PSPO that was undertaken with the Police identified a preference for extending the geographic scope of that PSPO. The previous PSPO was tightly focussed on the town centre. Therefore, any enforcement of that order risked moving the problem a short distance to an area outside the town centre, possibly closer to residential areas. In addition, the previous order did not include the area around the station, the approaches to Banbury United football club's ground, or Spiceball Park and playing fields. Appendix 1 of this paper includes a map showing the preferred geographic scope of any new PSPO for Banbury. It also includes a map showing the area covered by the expired PSPO.

3.5 Also during 2022 a new PSPO was introduced in Bicester Town Centre. The prohibitions in that Order are more focussed on the harmful impacts of anti-social behaviour. A decision was made not to renew the former Banbury PSPO until it could be assessed whether that alternative form of wording for a PSPO would

address the limitations experienced with the last Banbury PSPO. Experience has shown that the Bicester PSPO is proving to be useful in tackling anti-social behaviour in Bicester. Appendix 2 of this paper includes details of the preferred wording of any new PSPO for Banbury.

- 3.6 Ensuring the prohibitions in the PSPO relate directly to behaviours that cause or are likely to cause anti-social behaviour or nuisance or annoyance ensures that the extension of the geographic coverage of the order into residential areas does not unduly restrict freedoms and also provides a mechanism for assisting with anti-social behaviour problems in those areas.

### **Supporting Data**

- 3.7 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.
- 3.8 Neither Police nor Council data is recorded in a way that enables a direct analysis of incidents that would fall within the scope of the proposed PSPO to support conclusions on how many incidents would be actionable under that PSPO. However, Police data for the 5-year period from 1<sup>st</sup> January 2018 to 1<sup>st</sup> January 2023 identified 2940 incidents recorded in the proposed PSPO area. The highest recorded incident types are:
- Assault Without Injury (555 / 19%);
  - Assault With Injury (473 / 16%);
  - Public Order (460 / 16%);
  - Drug Offences (437 / 15%)
  - Criminal Damage (304 / 10%).
- 3.9 A PSPO as proposed is likely to have an impact on behaviours that may lead to incidents of assault, public order or criminal damage.
- 3.10 In addition, there were 257 incidents of anti-social behaviour recorded in the area during this time. The wording of the proposed PSPO has been developed to assist in resolving those anti-social behaviour issues.
- 3.11 It should be noted that a PSPO provides a back-drop to engagement with persons who may be contravening the prohibitions. It is useful to reinforce early engagement to reduce the negative impact of behaviours and to show that there are formal consequences if individuals do not change those behaviours. Therefore, the benefit of a PSPO goes beyond the formal action that may be taken for contraventions of the prohibitions contained within it. If a PSPO is introduced the Community Safety Team would continue with the existing approach to engage and advise first, but it would provide an option for an immediate and non-criminal escalation should this be necessary.
- 3.12 The proposed PSPO would prohibit -
- a) Loitering in the restricted area either as an individual or in a group in a way which causes, or is likely to cause, anti-social behaviour.
  - b) Begging or asking members of the public for money in the restricted area.

c) Consuming alcohol in the restricted area in a manner which causes nuisance or annoyance to other persons in the locality.

In addition, the proposed PSPO would require persons to cease to consume alcohol in the restricted area when directed to do so by an officer and to surrender alcohol to officers if requested. It would not apply in residential premises.

### **The Legal Framework for a PSPO**

- 3.13 Local authorities have the power to create PSPOs under the Anti-Social Behaviour, Crime and Policing Act 2014 ('the Act'). In deciding to make a PSPO, the Act requires that the local authority must have regard to the rights of freedom of expression and freedom of assembly set out in the Human Rights Act 1998.
- 3.14 The two issues which must be addressed for every proposed restriction in the PSPO are whether the statutory criteria are met and whether the restrictions proposed are proportionate having regard to the legitimate aim of preserving the quality of life for everyone who lives or works in, or who visits, the town centre.
- 3.15 A local authority can make a PSPO in respect of any public space within its administrative boundary. The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
- 3.16 Section 59 of the Act sets out the basis on which local authorities may make a PSPO. It provides as follows –
- (1) A local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.
  - (2) The first condition is that:
    - (a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
    - (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.
  - (3) The second condition is that the effect, or likely effect, of the activities:
    - (a) is, or is likely to be, of a persistent or continuing nature,
    - (b) is, or is likely to be, such as to make the activities unreasonable, and
    - (c) justifies the restrictions imposed by the notice.
  - (4) A PSPO is an order that identifies the public place referred to in subsection (2) ("the restricted area") and
    - (a) prohibits specified things being done in the restricted area,
    - (b) requires specified things to be done by persons carrying on specified activities in that area, or
    - (c) does both of those things.
  - (5) The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order:
    - (a) to prevent the detrimental effect referred to in subsection (2) from continuing, occurring or recurring, or
    - (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
- 3.17 In establishing a PSPO, appropriate signage must be displayed in accordance with the requirements of the Act and details of the PSPO must be published.

- 3.18 A breach of the PSPO can be dealt with through the issuing of a Fixed Penalty Notice of up to £100, a level 3 fine of up to £1000 on conviction, or £500 upon conviction for consuming alcohol in breach of the Order.

### **Consultation**

- 3.19 Before introducing, extending, varying or discharging a PSPO local authorities are obliged to consult with the local chief officer of police; the Police and Crime Commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives.
- 3.7 Therefore the Executive are asked to approve a public consultation commences on introducing a new PSPO for Banbury covering the area shown in appendix 1 and including the prohibitions as outlined in appendix 2.

## **4.0 Conclusion and Reasons for Recommendations**

- 4.1 Discussions with the Police and the Town Council confirmed that there is support for a further PSPO for Banbury town centre. Limitations with the previous PSPO led to a decision not to seek to renew that Order. A new PSPO has been developed addressing those limitations and encompassing a wider geographic area to support the work of the Council and partners in tackling Anti-Social Behaviour.
- 4.2 In order to introduce a new PSPO for Banbury town centre it is necessary to undertake a public consultation on the proposals. Therefore, it is recommended that a consultation is undertaken on the proposed new PSPO, with the outcome of the consultation informing the proposals that are then further reviewed by the Executive before a final decision is made on any new PSPO for Banbury town centre.

## **5.0 Consultation**

- 5.1 Before introducing, extending, varying or discharging a PSPO local authorities are obliged to consult with the local chief officer of police; the Police and Crime Commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives.
- 8.2 Should the Executive agree, a public consultation on the proposed PSPO for Banbury town centre will be arranged. This consultation will be primarily an online survey promoted by a press release and on the council's social media platforms. In addition, face-to-face engagement with visitors to the town centre will be undertaken along with visits to the main town centre businesses. Key stakeholders will be contacted direct including the Town Council, Banbury BID and all district and county councillors for Banbury.

## **6.0 Alternative Options and Reasons for Rejection**

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To not seek to introduce a new PSPO for Banbury town centre. Key stakeholders have indicated that they support the introduction of a new PSPO and therefore this option has been rejected.

- 6.2 Option 2: Re-issue the PSPO with no changes. Given that the previous PSPO has lapsed a public consultation would be required to reintroduce it. Since it is recognised that the previous PSPO could be improved, this option is option was rejected.

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 The introduction of a new PSPO for Banbury town centre would have only minor financial impacts on the Council since new signs will be required to be displayed around the restricted area. The enforcement of the PSPO will be undertaken within existing resources.

Comments checked by:

Kelly Wheeler, Finance Business Partner 01295 221570 [kelly.wheeler@cherwell-dc.gov.uk](mailto:kelly.wheeler@cherwell-dc.gov.uk)

### **Legal Implications**

- 7.2 The Legal framework for PSPOs and the conditions that must be met when determining whether to introduce a PSPO have been outlined in the main body of this paper.

Comments checked by:

Shiraz Sheikh, Assistant Director Law and Governance  
[Shiraz.sheikh@cherwell-dc.gov.uk](mailto:Shiraz.sheikh@cherwell-dc.gov.uk)

### **Risk Implications**

- 7.3 The recommendation is to commence a public consultation on a proposal to introduce a new PSPO for Banbury. PSPOs have been in place in town centre since 2016. Therefore, the introduction of a further PSPO for the area introduces no new risks for the Council. Any risk that may arise in the future will be managed through the service operational risk register and escalated to the leadership risk register as and when necessary.

Comments checked by:

Celia Prado-Teeling, Performance & Insight Team Leader, 01295 221556  
[Celia.Prado-Teeling@Cherwell-DC.gov.uk](mailto:Celia.Prado-Teeling@Cherwell-DC.gov.uk)

### **Equalities and Inclusion Implications**

- 7.4 An Equality and Climate Impact Assessment is included in Appendix 3 of this paper. This identifies no negative equality or inclusion impacts that need to be mitigated should a new PSPO be introduced.

Comments checked by:

Celia Prado-Teeling, Performance & Insight Team Leader, 01295 221556  
[Celia.Prado-Teeling@Cherwell-DC.gov.uk](mailto:Celia.Prado-Teeling@Cherwell-DC.gov.uk)

## **Sustainability Implications**

- 7.5 There are no sustainability implications identified in the Equality and Climate Impact Assessment. Given that no sustainability implications arose during the period when the previous PSPO was in force it is not expected that the proposed revised PSPO will give rise to any sustainability implications.

Comments checked by:

Ian Boll, Corporate Director, Communities

[ian.boll@cherwell-dc.gov.uk](mailto:ian.boll@cherwell-dc.gov.uk)

## **8.0 Decision Information**

**Key Decision:** No

**Financial Threshold Met:** No

**Community Impact Threshold Met:** No

### **Wards Affected**

All

### **Links to Corporate Plan and Policy Framework**

The work contributes to the Council's strategic priorities as outlined in the report above.

### **Lead Councillor**

Councillor Eddie Reeves, Portfolio Holder for Safer Communities

## **Document Information**

### **Appendix number and title**

- Appendix - Proposed geographic coverage of any new PSPO.
- Appendix 2 - Proposed PSPO prohibitions and offences.
- Appendix 3. Equality and Climate Impact Assessment.

### **Background papers**

None

### **Report Author and contact details**

Richard Webb – Assistant Director Regulatory Services and Community Safety  
07831 161996 [richard.webb@cherwell-dc.gov.uk](mailto:richard.webb@cherwell-dc.gov.uk)