

THURSDAY, 19 OCTOBER 2017

REPORT OF THE PORTFOLIO HOLDER FOR COMMUNITIES**PUBLIC SPACE PROTECTION ORDERS (CONVERSION OF DOG CONTROL AND DESIGNATED PUBLIC PLACE ORDERS)****EXEMPT INFORMATION**

None

PURPOSE

To consider implication of the automatic renewal of Designated Public Place and dog control orders in Tamworth orders as Public Space Protection Orders under the ASB Crime and Policing Act 2014

RECOMMENDATIONS

Members are asked to:

1. Approve the automatic conversion of the current Tamworth Dog Control Orders to Public Space Protection Orders based on continued need and proportionality
2. Approve the automatic conversion of the current Designated Public Place orders in the town Centre and Amington to Public Space Protection Orders based on continued need and proportionality

EXECUTIVE SUMMARY

The ASB, Crime and Policing Act 2014 replaced Dog Control Orders and Designated Public Place Orders (alcohol exclusion zones) with Public Space Protection Orders.

The transitional arrangements set out in Section 75 of the Anti-Social Behaviour, Crime and Policing Act 2014 apply to gating orders, designated public places orders (alcohol bans) and dog control orders.

The existing Dog Control and Designated Public Place Orders in Tamworth will still be in place until 20th October 2017 and will then automatically be treated as if the orders had been made under the ASB, Crime and Policing Act and will become a Public Spaces Protection Order.

Where the existing orders are not reviewed they will only remain in place for three years. At the end of this period they will be revoked unless a review is undertaken and they become a Public Space Protection Order, as set out within the legislation.

In order to bring into effect this legislation in a proportionate and effective manner, the recommendation is to review the orders currently and consider bringing them

formally under a new PSPO. At a minimum a change to the signage is required to refer to the new legislation

A Public Space Protection Order is then required to be reviewed every three years to ensure their ongoing effectiveness and whether they continue to address the reasons they were implemented.

Penalties for breach of a Public Space Protection Order can be issued by designated Council Officers and the Police (who also have powers under the ASB, Crime and Policing Act 2014).

Implementation of a new PSPOs requires a period of public consultation. There is no legislative requirement to undergo further consultation if the orders are being renewed and the Council deem that the orders are still fit for purpose.

The Tamworth Local Policing Team Inspector has also been consulted as to this approach and fully endorses the renewal at this time for officers to respond in a proportionate manner as appropriate to address public concerns and within resourcing levels.

Public Space Protection Order (Tamworth Dog Control)

Based on the public consultation in 2012 for the implementation of Dog Control Orders, the majority of respondents were in favour and the orders have not been restrictive on the ability of dog owners to exercise dogs responsibly.

The Kennel Club and relevant landowners also deemed the control orders in Tamworth to be reasonable in addressing both the health concerns around fouling and the need for public safety with regards to dogs on lead and out of control dogs.

It is proposed that the reasons for the implementation of the Dog Control Orders have not changed, there is no material change in the restrictions and that the Council seek to endorse the renewal of these orders as the Public Space Protection Order (Tamworth Dog Control) with effect from 20 October 2017 until 31 October 2020.

The introduction of a Public Space Protection Order increases the fixed penalty notice on breach to £100 (reduced to £85 for early payment).

A copy of the proposed updated order is found as Appendix 1.

Public Space Protection Order (Alcohol Control in a Public Place)

The DPPOs in Tamworth Town Centre and Amington were introduced in response to concern with regard to street drinking and drink related Anti-Social Behaviour in and around the Castle Grounds and along the canal in Amington.

The orders have been in place for 10 years and were introduced to address concerns with regard to alcohol related ASB and the nuisance caused to the community.

The renewal of a blanket order represents a zero tolerance approach to drinking in a wider public place to deter anti-social behaviour, however the officers will have the discretion to make a considered decision as to whether the continued drinking of alcohol is anti-social eg a picnic in the Castle Grounds.

It is not an offence to drink alcohol in a controlled drinking zone. However, it is an offence to fail to comply with a request to cease drinking or surrender alcohol in a controlled drinking zone.

In all instances where the person is deemed to be causing anti social behavioural issues, they will be requested to stop drinking in the first instance. If alcohol is confiscated, it can be disposed of by the person who confiscates it.

Under current legislation, police officers are already able to confiscate alcohol from under 18s and the officer(s) providing the request will use their discretion about confiscation and disposal of alcohol from those over 18.

Dependent on the behaviour in question, the enforcing officer could decide that a fixed penalty notice (FPN) would be the most appropriate sanction. Whilst FPNs can be legally be issued to anyone over the age of criminal responsibility (10 years), in accordance with the Tamworth Borough Council ASB Policy, there is discretion to consider other sanctions including warnings and Acceptable Behaviour Contracts to show a proportionate response to the behaviour.

The introduction of the Public Space Protection Order (Alcohol Control in a Public Place) does not restrict the consumption of alcohol where a premises or its curtilage (a beer garden or pavement seating area) is licensed for the supply of alcohol. There are also limitations where either Part 5 of the Licensing Act 2003 or section 115E of the Highways Act 1980 applies. The licensing system already includes safeguards against premises becoming centres for anti-social behaviour.

The town centre is currently a priority for the Council and is working with local businesses to become a Business Improvement District. The wider environmental and public safety/enforcement aspects of the town centre could be considered for a wider Public Space Protection Order at that time based on any anti social behaviour issues that requires attention.

The introduction of a Public Space Protection Order increases the fixed penalty notice on breach to £100 (reduced to £85 for early payment).

It is proposed that the reasons for the implementation of the Designated Public Place Orders have not changed, there is no material change in the restrictions and that the Council seek to endorse the renewal of these orders as the Public Space Protection Order (Alcohol Control in a Public Place) with effect from 20 October 2017 until 31 October 2020.

A copy of the proposed Order and relevant mapped areas are found at Appendix 2 a, 2b and 2c.

OPTIONS CONSIDERED

Under the ASB, Crime and Policing Act 2014 the Council have two options:-

- To agree the current orders and confirm the requirement for an ongoing PSPO for 3 years
- To discharge the existing order as no longer needed

RESOURCE IMPLICATIONS

Community Wardens, Clean Neighbourhood Officer have delegation to issue penalties under the current legislation and will do so based on intelligence and proportionality

Police officers are delegated automatically to issue penalties under the ASB, Crime and Policing Act 2014 and will work with the Council as part of the Community Safety Partnership and will do so proportionately and in response to concerns as they arise.

A review of signage will be undertaken and funded from current revenue budgets as necessary.

Updates required to current fixed penalty stationery and Dog Control information to be met from existing resources.

Additional training for designated officers as appropriate to be funded from existing resources.

There will be no significant increase in income received due to the change in the amount charged for each fixed penalty notice.

LEGAL/RISK IMPLICATIONS BACKGROUND

Legal implications covered by report

SUSTAINABILITY IMPLICATIONS

A review is required on all Public Space Protection Orders every 3 years or as circumstance changes or as circumstance dictate. Any reviews of existing orders will be subject to current processes.

BACKGROUND INFORMATION

Dog Control Orders

The Council has had Dog Control Orders in place since 2012:

- Fouling of Land by Dogs Order - the effect of this Order is to make it an offence for a person in charge of a dog to fail to remove faeces forthwith from any land to which the Order applies – the whole of the Borough
- Dogs on Lead by Direction Order – the effect of the Order is to make it an offence for a person in charge of a dog to fail to put that dog on a lead under the direction of an authorised officer on any land to which the Order applies. (The whole of the Borough of Tamworth)
- Dogs On Lead at ALL times Order - the effect of the Order is to make it an offence for a person in charge of a dog to fail to ensure that a dog is kept on a lead on any land to which the Order applies - Cemeteries, roads and adjacent footpaths (as defined by the RTA 1988), Anker Valley football pitches, pedestrian area of the town centre and Upper Lawn of the Castle Grounds
- Dog Exclusion Order – the effect of the Order is to make it an offence for a

person in charge of a dog to permit the dog to enter or remain on any land to which this Order applies (Designated play areas only)

The public consultation undertaken at that time showed overwhelming support for these measures.

Until 20 October 2017 the penalties for breach of a Dog Control order is £80 (reduced to £50 for early payment). Penalties can only be issued by Council officers.

Designated Public Place Orders

Tamworth currently has two DPPOs covering the town centre and Amington.

The Designated Public Place Order gives the Police the powers to require anyone drinking what an officer believes to be alcohol within the designated area, to cease doing so. They must also surrender the alcoholic drink and any other intoxicating liquor they may have in their possession. Failure to comply with such a request constitutes an offence.

There is no enforcement of the legislation against those drinking alcohol outside of a licensed venue provided that the alcohol was purchased from the venue and is being enjoyed within the confines of the premises, including whilst seated at tables owned by that venue (street café). Clearly, if any persons in such areas are behaving in an anti-social manner, the Police will enforce the legislation.

Licensed events organised or authorised by the Borough Council within the boundary of the town centre designated area are treated in the same manner by the Police and as such notice needs to be given under the Castle Grounds Licence or as a Temporary Events Notice.

The current level of fixed penalty is £30 and can only be issued by the Police. To date no fixed penalties have ever been issued

The test for the use of a PSPO is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities. A PSPO can be made/renewed/amended by the Council if they are satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed.

REPORT AUTHOR

Jo Sands , Head of Community Safety

LIST OF BACKGROUND PAPERS

Anti-social Behaviour, Crime and

APPENDICES

Appendix 1 – Draft PSPO (Tamworth Dog Control)

Appendix 2a – Draft PSPO (Alcohol Control in a Public Place)

Appendix 2b – Town Centre Alcohol controlled area

Appendix 2c - Amington Alcohol Controlled area