

SCRUTINY COMMISSION – 16 JUNE 2016

INTRODUCTION OF PUBLIC SPACE PROTECTION ORDER REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)



Hinckley & Bosworth
Borough Council

A Borough to be proud of

WARDS AFFECTED: ALL

1. PURPOSE OF REPORT

To Scrutiny Commissions endorsement to establish a Public Space Protection Order to prevent antisocial activities in public places. Parts of this Order will be Borough wide, and parts will cover HBBC owned land only.

2. RECOMMENDATION

2.1 That Scrutiny Commission endorse:

- (1) The creation of a borough wide Public Space Protection Order incorporating the controls outlined in 3.2 to 3.4 of the report.
- (2) The delegation of authority to the Chief Officer (Environmental Health), the Chief Officer (Housing, Community Safety and Partnerships, the Executive Member for Neighbourhood Services and the Executive Member for Housing Services & Community Safety Services to implement this order and to authorise suitably qualified officers for enforcement.

3. BACKGROUND TO THE REPORT

3.1 The Anti-social Behaviour, Crime and Policing Act 2014 (c.12) permits HBBC to create Public Spaces Protection Orders (PSPO's). PSPO's are designed to stop individuals or groups committing anti social behaviour in a public space and run for 3 years. The local authority can extend a PSPO for up to 3 years if they are satisfied that an extension is necessary to prevent the continuing behaviour. The Council may make a PSPO if satisfied that two conditions are met (Section 59 of the Act):

1. That the activities have taken place, or that are they likely to be taking place, in a public place within the authority's area and have had, or are likely to have, a detrimental effect on the quality of life of those in the locality; and
2. That the effect, or likely effect, of the activities:
 - i) Is, or is likely to be, of a persistent or continuing nature;
 - ii) Is, or is likely to be, such as to make the activities unreasonable; and
 - iii) Justifies the restrictions imposed by the order.

3.2 The council conducted a public consultation during January – March 2016, the results of which are detailed in Appendix 1. The consultation was supportive of establishing a PSPO as follows:

- a) Ban the use of intoxicating substances (which includes alcohol and New Psychoactive Substances and emerging drugs) *on public land*.

Under the PSPO, anyone in breach of the order would be committing a criminal offence and could receive a Fixed Penalty Notice or face a fine in court. Police would have the power to seize the intoxicating substances. This would be enforced by the police in a proportionate manner in conjunction with the council's

Endeavour Team to deal with issues arising and we would continue to work via the tiered approach to avoid young people being criminalised.

- b) Prohibit the use of fires and barbeques, camping with or without a vehicle, the use of remote controlled vehicles, the use of a motorcycle, and refusal to leave a site when required.

Under a PSPO, the council could enforce against anyone found in breach of any of the above acts deemed to cause a nuisance within *HBBC parks and open spaces*.

- c) Put dogs on lead if instructed to do so by an Authorised Officer from the Council.

In cases where an irresponsible owner is allowing their dog to cause a nuisance *within HBBC parks and open spaces*, an Authorised Officer from the Council could require the owner to keep their dog on a lead.

- d) Restrict dogs from going into certain places i.e. children's play areas.

Under the PSPO, it would be possible to prohibit dogs from the following specified areas:

- a. *children's play areas on HBBC parks and open spaces (which are clearly signed and with exception for assistance dogs);*
- b. *multi-use games areas on HBBC parks and open spaces (which are clearly signed and with exception for assistance dogs);*

- e) Keep dogs on a lead, in specified areas

Under the PSPO, the council could insist that dogs are kept on leads at all times in the following areas;

- a. *a highway, carriageway, cycle lane, footway, footpath, maintainable at the public expense, any grass verge managed by any Local Authority and which is adjacent to the carriageway or footway of a highway, including gutters and adjoining footpaths (this excludes footpaths within HBBC parks and open spaces)*
- b. *clearly specified and signed areas within Hollycroft Park.*
- c. *all cemeteries and graveyards which are managed or owned by Hinckley & Bosworth Borough Council.*
- d. *All sports pitches within HBBC parks and open spaces, but only when in use for officiated sporting matches.*

- f) Fouling of Land by Dogs.

Under the PSPO the council would enforce dog owners for not clearing away dog fouling; this would be *across public land Borough wide*.

3.3 Exemptions.

The powers/restrictions referred to above would not apply to those who are registered blind or use assistance dogs.

3.4 Penalties.

Under the current Dog Fouling of Land Act 1996 failure by the owner to clear up after their dogs foul can result in the person being issued with a £50 Fixed Penalty Notice (FPN). The PSPO enables the Council to issue FPN's of up to £100, with an option to

reduce the amount to £80.00 if the fine is paid within 10 days. If the FPN is not paid, the Council could prosecute the offender in the magistrates Court, where the maximum fine is currently £1000 (level 3 on the standard scale). The FPN level for dog fouling would therefore be amended to £100 or £80 for early payment.

4. *Implementation.*

4.1 Officers propose to implement the PSPO in a 2 stage approach:-

Stage1: to be implemented as soon as practical (estimated September 2016):-

- Replace existing “No Drinking” order
- Ban the use of intoxicating substances (which includes alcohol and what are New Psychoactive Substances and emerging drugs) on public land
- Ban dog fouling on public land throughout the whole of the Borough
- Restrict dogs accessing play areas and other sensitive areas
- Enforce dogs on leads in certain areas.

Stage 2: Investigate extending the PSPO to cover other areas such as:-

- Dog control issues on parish council land / HBBC housing land /other public land
- Other activities taking place, or that are they likely to be taking place, in a public place within the authority’s area and have had, or are likely to have, a detrimental effect on the quality of life of those in the locality.

Following further consultation relating to land controlled by Parish Councils and regarding any new or emerging threats a decision will be required by Council in July 2017 to establish Stage 2 of the PSPO. The revised Order is expected to be in force by September 2017.

Lead Member for Rural Communities and Environment is to be consulted during the development of Stage 2 of the PSPO.

4.2 Enforcement.

Authorised officers from Street scene services will the lead for the enforcement of dog related breach’s i.e. dog fouling & park restrictions. Other suitable officers will be designated by Chief Officers. The Police will be responsible for enforcement action relating to intoxicating substances including alcohol.

Prior to the launch of the Public Space Protection order an educational campaign will run operating a ‘warning notice’ system of fixed penalty notice for the new offences under the order for a three month period (except for Dog fouling offences).

5. FINANCIAL IMPLICATIONS [CS]

5.1 PSPO will require signage at 45 sites in HBBC ownership. The total cost is £833. These costs will be met from existing Street Scene budgets. In addition a further 400 stickers will be required for the on street dog fouling signage.

5.2 Total cost is £680.00. These costs will also be met from existing Street Scene budgets.

5.3 It is difficult to predict the level of additional income this change will generate. However, it is anticipated that income from dog fouling fines will double by £450 to

£900. Therefore Council are requested to approve a supplementary income budget for £450.

5.4 Parish Councils will need to provide their own signage costs at stage 2 if subsequently approved.

6. LEGAL IMPLICATIONS [JB]

6.1 The legal implications of the adoption of PSPOs have been incorporated within the body of the Report at Paragraph 3.

7. CORPORATE PLAN IMPLICATIONS

7.1 Creating a vibrant place to work and live through:-

- Clean neighbourhoods,
- Protecting and improving our parks & open spaces,
- Protecting the community by creating a safer place ,

Supporting individuals through:-

- encouraging responsible citizenship

and Providing Value for Money and Pro-active Services through:-

- efficient, effective and pro- active services

8. CONSULTATION

8.1 This consultation was held during 15th January 2016 and March 25th 2016. 697 responses were received from members of public throughout the Borough demonstrating significant support for these controls, detailed results in Appendix 1. Further responses were received from the Police and a detailed response from The Kennel Club supporting the importance of PSPO's but highlighting the importance of balancing the interests of dog owners with the interests of other access users. Details of consultation project plan highlighting who we consulted with and how is given in Appendix 2.

9. RISK IMPLICATIONS

8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

8.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Unachievable expectation levels from the public on the enforcement of the intoxicating substances element – limited police resources	Clear communications led by the Community Safety Partnership to ensure that public are aware that this order will be used in a proportionate manner by the police and council Endeavour Team to tackle issues of most concern/impact on the wider community. [eg ensure the Council has a sound knowledge of both the restrictions and opportunities]	Sharon Stacey / Rachel Burgess
Incorrect drafting of the PSPO	Ensure correctly drafted	Legal Services Manager

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

9.1 An EIA has been undertaken and can be found on the councils performance management system under strategies and policy's.

9.2 The dog fouling controls and dogs on leads apply across the borough and all powers relating to HBBC owned land in the rural areas. The future consultation of Parish Councils will directly affect rural areas.

10. CORPORATE IMPLICATIONS

10.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector

Background papers: PSPO consultation file

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