

# CABINET

## Morecambe & Heysham Public Spaces Protection Order 2018

24 April 2018

### Report of Chief Officer (Health & Housing)

PURPOSE OF REPORT				
To seek approval to make a Public Spaces Protection Order covering areas of Morecambe & Heysham.				
Key Decision	X	Non-Key Decision		Referral from Cabinet Member
Date of notice of forthcoming key decision		26 March 2018		
This report is public.				

#### RECOMMENDATIONS OF COUNCILLOR BRENDAN HUGHES

- (1) That the making of a Public Spaces Protection Order covering the designated areas of Morecambe & Heysham is approved, as set out at Appendix A.

##### 1.0 Introduction

- 1.1 In October 2014 the Secretary of State enacted powers from the Anti-Social Behaviour, Crime and Policing Act, that made changes to some of the relevant existing legislation requiring the council to reconsider its Designated Public Place Orders (DPPOs), which are used to prevent on street drinking, and either withdraw or replace them with new Public Space Protection Orders (PSPOs).
- 1.2 In order to attract even more visitors to Morecambe and Heysham and build the already sizeable events programme it is important to have tools in place that can be used to deal with street drinking and anti-social behaviour.
- 1.3 A number of initiatives have been put in place already (e.g. Council ASB team) that have helped to reduce the impact and prevalence of this. The DPPO will end in 2018. This is a cause of concern.

##### 2.0 Proposal Details

- 2.1 Approval is sought to make a Public Space Protection Order (Appendix B) in the area defined by the attached maps (Appendix A). This would replace the current Designated Public Place Order. Lancashire Constabulary have specifically requested that the council puts in place a PSPO as soon as possible as they

consider it will be a useful tool in managing the town centre.

2.2 Based on statistics from the Police, the hotspot locations for anti-social behaviour are generally Queen St, Marine Road Central, Euston Road, Regent Road and Heysham Road. Also Public Order Offences increased by 41% in the proposed areas (Appendix C).

2.3 Approval of the Public Spaces Protection Order would give Lancashire Constabulary additional powers to help target these issues.

In specific terms the PSPO will provide additional powers to deal with:

- shouting, swearing and behaviour causing annoyance, harassment, alarm or distress
- urinating
- prohibition of alcohol consumption

2.4 It is expected that the Anti-Social Behaviour team of Lancaster City Council would mainly enforce the PSPO. Lancashire Constabulary would also have the powers to enforce the PSPO on behalf of Lancaster City Council but collection of fines and any potential prosecutions would be the responsibility of the council.

2.5 A person can be issued a fixed penalty notice (FPN) of £100, reduced to £65 if paid within 10 days. Payment of this FPN offers the opportunity to discharge any liability to conviction of that offence. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 (£1,000) on the standard scale. A person guilty of consumption of alcohol in breach of prohibition order commits an offence and is liable on summary conviction to a fine not exceeding level 2 (£500) on the standard scale. This is as per section 63 & 67 of the Anti-Social Behaviour, Crime and Policing Act 2014.

2.6 The use of a PSPO would contribute to a number of the council's priorities and would also support two of the priorities of the Community Safety Partnership, which are Violence against the Person and Anti-Social Behaviour.

2.7 The PSPO that is already in place at Ridge Square and Lancaster City Centre has, along with a number of other actions, had a positive impact on the community and surrounding area.

2.8 The PSPO will be for a 3 year term, which is the maximum time allowed and will be reviewed annually by the council's Overview & Scrutiny Committee.

2.9 Officers will report on the performance of the PSPO to the Community Safety Partnership and the Overview & Scrutiny Committee.

2.10 A PSPO can be varied at any point based on changes in circumstance or issues.

2.11 Any Order would be open to challenge by an interested person in the High Court within 6 weeks of it being made. An interested person is defined as an individual who lives in the restricted area or who regularly works in or visits that area.

### **3.0 Details of Consultation**

3.1 A formal consultation was launched on the 10 July 2017. As above, the Act is not specific on what constitutes an appropriate consultation, however it is clear that it

requires that the local authority consult with the following:

- Chief Officer of Police for the local area.
- Police and Crime Commissioner.
- Land Owners in the area.
- Any Community Representatives the local authority feels appropriate.

3.2 There were a total of 161 responses received in the online survey. The views of consultees have been taken into account in developing the proposal.

#### **4.0 Revised Guidance**

4.1 Since that consultation the Government also has reviewed the scope and use of PSPOs and issued new revised guidance at the end of December 2017 and provided greater clarity on how to use powers such as PSPOs.

4.2 It follows feedback from charities and other groups who raised concerns that the orders were being used to disproportionately target certain groups in some areas rather than focusing on behaviour that is genuinely anti-social and causing others distress or alarm.

4.3 Particular concerns were raised around the use of the orders against the homeless, buskers, dog walkers and, in some cases, people simply gathering together in small groups in town centres who were not engaged in anti-social behaviour.

4.4 The guidance puts greater emphasis on the need to ensure the powers are used to target specific nuisance behaviours and are not applied in a blanket way against specific groups or behaviour that is not in itself anti-social. It reminds councils that powers should not, for example, target normal everyday behaviour that is not having a detrimental effect on the community's quality of life, such as standing in groups in a town centre.

4.5 The Government wants to ensure that there is transparency and accountability in the use of the powers and has actively worked with a number of organisations including charities working to help the homeless in developing the refreshed guidance.

4.6 Elements of the guidance include:

- focusing on specific and actual problems rather than blanket bans of behaviours that are not in themselves anti-social – such as rough sleeping;
- reiterating that before making a Public Spaces Protection Order councils must consult the police and community representatives to ensure specific groups have the opportunity to comment;
- highlighting how the Civil Injunction and the Criminal Behaviour Order can be used to tackle gang activity.

#### **5.0 Delay in bringing forward the PSPO**

5.1 The original timescale for bringing forward the PSPO has been delayed to enable the now published new guidance to be taken into account in the framing of the proposed Morecambe and Heysham PSPO.

## 6.0 Options and Options Analysis (including risk assessment)

	<b>Option 1:</b> To approve the introduction of a Public Spaces Protection Order covering areas of Morecambe & Heysham	<b>Option 2:</b> To take no action
Advantages	The introduction of a PSPO will provide a clear message about the type of behaviour that is not acceptable within the proposed areas, and will provide additional powers to tackle any anti-social behaviour as described in the Order. The introduction of an Order responds to public concerns about behaviour within the City centre. It also reinforces the council's commitment to partnership working.	None
Disadvantages	Raises public expectation. The PSPO is a tool that can be used by authorised officers. However there is no additional staff resource being allocated to this.	<p>The current no outside drinking rules will no longer be able to be enforced as the DPPO expires in 2017.</p> <p>The Police has requested that as partners in the CSP we take out a PSPO. To take no action would demonstrate a lack of support.</p> <p>Does not demonstrate the council's commitment to community safety and addressing residents' legitimate concerns.</p>
Risks	None.	Reputational damage.

## 7.0 Officer Preferred Option (and comments)

- 7.1 Option 1 is the preferred officer option, and has the support of the Community Safety Partnership and the local community.

## 8.0 Conclusion

- 8.1 The making of a Public Spaces Protection Order covering the designated area of Morecambe & Heysham should enable the better policing of this public space and bring relief to local residents.

### RELATIONSHIP TO POLICY FRAMEWORK

The proposal supports the council's priorities of clean, green and safe places, and community

leadership.

### **CONCLUSION OF IMPACT ASSESSMENT**

**(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)**

The Order will be compliant with the Human Rights Act 1998 as long as the council is reasonably satisfied that the measures in it are justified. Although the Order is at least partially directed at young people and hence raises age specific issues, its effect is intended to be even handed and proportionate and so not to raise issues under the Equality Act.

### **LEGAL IMPLICATIONS**

This report recommends legal action be taken by the council in accordance with the new legislation and also involves subsequent legal enforcement relevant to that action. The legal parameters laid out within the Act will be considered carefully against the proposal for an Order.

### **FINANCIAL IMPLICATIONS**

Enforcement costs under this order will be met by existing Police staff. There were some internal costs for consultation and a small cost associated with the publication of the Order and stationary for FPNs along with signage. These will be met from within existing budgets.

Income from FPNs is expected to be small and will be used to cover the associated costs of implementing the proposal.

### **OTHER RESOURCE IMPLICATIONS**

#### **Human Resources:**

None

#### **Information Services:**

None

#### **Property:**

None

#### **Open Spaces:**

As set out in the report.

### **SECTION 151 OFFICER'S COMMENTS**

The Deputy S151 Officer has been consulted and has no additional comments to make.

### **MONITORING OFFICER'S COMMENTS**

The Deputy Monitoring Officer has been consulted and has no further comments

### **BACKGROUND PAPERS**

None

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