

Public Space Protection Orders (PSPO) – review of existing orders

Report number:	CAB/WS/20/058	
Report to and date(s):	Cabinet	22 September 2020
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Decisions Plan: **The decision made as a result of this report will usually be published within 48 hours and cannot be actioned until five clear working days of the publication of the decision have elapsed. This item is included on the Decisions Plan.**

Wards impacted: **Alcohol-related PSPO Haverhill:** Central, South East, North, South and East
Alcohol-related PSPO Brandon: Brandon Central
Alcohol-related PSPO Bury St Edmunds: Abbeygate, Southgate, Eastgate and Tollgate
Alcohol-related PSPO Newmarket: Newmarket East and Newmarket West

Dog Control PSPO:

Dog fouling condition – all wards in West Suffolk

Dog exclusion condition – Brandon West, Brandon Central, Brandon East, Lakenheath, The Rows, Mildenhall Queensway, Mildenhall Kingsway and Market, Mildenhall Great Heath, Icen, Risby, Barningham, Abbeygate, Tollgate, Moreton Hall, Westgate, Minden, Southgate, St Olaves, Newmarket East, Newmarket West, Newmarket North, Kentford and Moulton, Exning, Horringer, The Fornhams and Great Barton, Stanton, Haverhill North, Haverhill West, Haverhill South West, Haverhill Central, Haverhill East, Haverhill South, Clare Hundon and Kedington, and Withersfield

Recommendations: **It is recommended that Cabinet:**

- 1. considers the outcomes of the review and agrees to continue with the existing PSPOs detailed in Appendices A and B to Report number: CAB/WS/20/058; and**
- 2. requests further consideration is given to the proposed variations submitted during engagement with stakeholders, namely the extension of PSPO areas in Brandon, Haverhill and Bury St Edmunds as set out in section 3.3 of Report number: CAB/WS/20/058.**

1. Context to this report

- 1.1 Forest Heath District Council and St Edmundsbury Borough Council (now known as West Suffolk Council) implemented a number of Public Space Protection Orders (PSPOs) in September 2017 restricting specific behaviours in defined areas of the district. An amendment was made to the Bury St Edmunds PSPO in September 2019 to extend the scope of the order. PSPOs were introduced by the Anti-Social Behaviour Crime and Policing Act 2014 as a tool to tackle anti-social and nuisance behaviour which can have a detrimental effect on communities. PSPOs replaced the Designated Public Protection Orders (DPPOs) that previously existed.
- 1.2 PSPOs enable the Council to prohibit certain behaviours in a defined geographical area and failure to comply with the requirements of an approved PSPO can result in a criminal offence being committed which is punishable with either a fixed penalty notice or a fine.
- 1.3 PSPOs expire after three years of implementation and the Council has a duty to conduct a review of all PSPOs within the three-year time frame, and determine whether to amend, renew or discharge the orders.
- 1.4 West Suffolk currently has the following PSPOs in place:
1. Dog fouling across all public open spaces.
 2. Banning of dogs from certain specific children’s play areas, war memorial gardens and sports pitch areas.
 3. Restricting the consumption of alcohol within specific areas (namely defined areas in Haverhill, Brandon, Newmarket and Bury St Edmunds) and banning of begging congregation and anti-social use of vehicles in defined area of Bury St Edmunds.
- 1.5 A copy of all current PSPOs within West Suffolk can be found Appendix A and maps identifying the geographical areas can be found Appendix B.

2. The review

- 2.1 West Suffolk Council has adopted the guidelines set out in the Local Government Association Public Space Protection Orders Guidance for Councils, to ensure the review is conducted in a timely and appropriate manner as well as adhering to the 2014 Act.
- 2.2 By virtue of the Act, the Council must undertake a review, communicate intent to introduce new PSPOs and undertake consultations with certain key stakeholders to ensure that it can make an informed decision when determining the outcome of the review.

- 2.3 Stakeholders that must be consulted with include the local constabulary, the Police and Crime Commissioner, owners and occupiers of land within the areas as well as community representatives and certain interest groups the local authority deem appropriate.
- 2.4 Extension of existing orders can be granted under section 60 of the Act where it is shown that an extension is necessary to prevent activity occurring or there has been an increase in frequency or seriousness of the activities.
- 2.5 However, an extension can only be granted following a review. If no review is undertaken there is no mechanism for automatic review. As a consequence, Cabinet is required to make a formal decision regarding the PSPOs by 30 September 2020 otherwise all PSPOs will expire with the exception of the Bury St Edmunds PSPO. Whilst it is not necessary to review the Bury St Edmunds PSPO until September 2021 it has been included to enable all PSPOs to be reviewed in the same timescales in future.
- 2.6 Initial engagement with Suffolk Police and a number of key stakeholders was conducted between March 2020 and mid-April 2020. This allowed the Council to gauge their initial feedback on the effectiveness of the PSPOs and whether any amendments were required.
- 2.7 Further engagement took place between June and August 2020 with key stakeholders within the affected areas. This engagement took the form of letters, emails and telephone calls to encourage responses and feedback from a variety of those engaged stakeholders. As well as stakeholders, all parish and town councils were contacted, together with district and county representatives. Feedback from this engagement is outlined in section three.

3. Engagement and feedback from stakeholders – antisocial behaviour PSPOs

- 3.1 **Police response:** Feedback was received from all three Inspectors covering the policing areas of Haverhill, Bury St Edmunds and the former Forest Heath area:
 - 3.1.1 Former Forest Heath area: Fully support the continuation of the PSPOs within Newmarket and Brandon. Although limited formal use of the powers in either town, the police feel that having the power to remove alcohol leads to positive responses from individuals. Suffolk Police feel the removal of the PSPOs would have a negative effect on a means of effectively policing the area.
 - 3.1.2 Haverhill: Similar to the Forest Heath Police Inspector, although no formal use of the power, less formal is effective with an example of ongoing anti-social behaviour issues within Queen’s Street where individuals positively react to police warning under the PSPO is sufficient to stop issues. Haverhill

Police consider that individuals respond positively to the power and again removing would have a negative effect on the area.

3.1.3 Bury St Edmunds: The Bury St Edmunds policing team is in favour of the continuation of the PSPO, which was amended in 2019. Officers utilise this power, alongside community protection notices in combating street drinking and begging within the town centre

3.1.4 Although much of the impact is unknown, Suffolk Police feel this is an important power to have especially when tackling night-time economy issues

3.2 Stakeholder Response – all PSPOs:

3.2.1 A range of stakeholders were consulted with including parish and town councils, business groups, Newmarket Vision, playing field associations, country parks, housing associations, resident groups, places of worship, specialist partners, business districts and district councillors.

3.2.2 During this second phase of consultation (June to August 2020), the Council sought the views of further community representatives the local authority considered appropriate to consult with, in accordance with the guidelines set out in the Act. Consultation was targeted to the areas of concerns.

3.2.3 This engagement also explained there were no changes to the PSPOs at this time apart from the minor change to the dog banning order to include two relatively small areas within Brandon Country Park (play area and walled garden) and the creation of a new West Suffolk wide PSPO dog fouling order, due to the existing orders reflecting the former Forest Heath and St Edmundsbury boundaries.

3.2.4 The results of the feedback are as follows (there is a degree of duplication depending on role, particularly with councillors, and percentages are rounded). It should be noted that feedback is likely to have been impacted by the Covid-19 crisis which is why some targeted contact with some key groups was required:

ASB PSPO	Newmarket	Brandon	Haverhill	Bury St Edmunds	Totals
Email/ letters sent	111	73	130	171	285
Responses received (% of sent)	7 (6%)	5 (7%)	15 (12%)	20 (12%)	49 (10%)

Dog PSPO	District wide	Totals
Email/ letters sent	266	266
Responses received (% of sent)	18 (7%)	18 (7%)

Responses are sub-divided as follows:

	Newmarket	Brandon	Haverhill	Bury St Edmunds	Dog PSPO
Remain	2 (29%)		7 (47%)	12 (60%)	6 (33%)
Amend	2 (29%)	5 (100%)	8 (53%)	6 (30%)	4 (22%)
Remove					
No comment	3 (42%)			2 (10%)	8 (45%)

The 'amend' category can be further sub-divided as:

	Newmarket	Brandon	Haverhill	Bury St Edmunds
Increase the geographic area covered	1 (50%)	4 (80%)	3 (38%)	4 (67%)
Decrease the geographic area covered			1 (12%) ^^	
Other	1 (50%)	1 (20%)	4 (50%)	2 (33%)

^^ An area of land, originally included, has now been developed into residential housing

3.3 Notwithstanding that responses were limited, it is clear that there is support for the continuation of the PSPOs. However, there is a request to review the current geographical areas and look to increase the area covered within Brandon, Haverhill and Bury St Edmunds in terms of PSPOs (restricting the consumption of alcohol within specific areas).

3.3.1 Representation has been made by the Brandon Town Council to vary the existing PSPO (restricting the consumption of alcohol within specific areas) and consider extending the current area. Four additional areas have been mentioned in their response including George Street Car Park (already covered under the existing order), The Orchard and The Lode areas (parts are already covered but an extension would cover outlying areas) and Seymour Gardens, Seymour Avenue which has recently been adopted by

Brandon in Bloom and they are starting to see an increase in issues in the area. This area is a residential area and not in the vicinity of the current order.

- 3.3.2 Representation has been made by Haverhill Town Council to vary the existing PSPO (restricting the consumption of alcohol within specific areas) and consider extending the current area. Both parks (West Town and East Town) are being put forward for consideration, although we would need to be mindful that parts of East Town Park fall within an adjoining council area.
- 3.3.3 Additionally a charity based within Haverhill has requested two housing estates be considered for inclusion under the order.
- 3.3.4 Representation has been made by a resident association requesting the Council considers a stand alone PSPO for the Moreton Hall estate (area as yet undefined) to help combat the issues experienced by residents through antisocial driving.
- 3.3.5 In order to amend any PSPO, the Council must consider the evidence, from partners and communities, as well as a more thorough public consultation process including giving the opportunity to consider the new proposed area.
- 3.3.6 Councillors will be aware that due to Covid-19 restrictions conducting a more robust consultation process, in relation to the variations put forward, proved difficult and as such councillors agreed not to consult on any suggested changes during this engagement process, but to consider any requests for variations in the future and at a time when the public is able to engage fully in any consultation process.

4. Next steps

- 4.1 **Suggested stakeholder amendments to existing PSPOs:** As stated at section 3.3 above, suggestions have been raised by stakeholders as a result of the review process, and it is proposed that these are not considered at this time. The exception being the minor amendment to the dog fouling and dog control PSPOs as follows: A geographical amendment to the banning of dogs order at Brandon Country Park; and the introduction of a West Suffolk wide dog fouling order.
 - 4.1.1 Amendments to PSPOs must be fully evidenced and wider opportunities for consultation must be given to the public. Any amendments can be considered and the appropriate consultation process followed anytime within the three year timeframe of a PSPO and would be subject to Cabinet approval.
 - 4.1.2 Due to the number of variations received by the Council and due to the restrictions of Covid-19 being amended it is felt that these requests should be

considered in a timely manner. It is therefore recommended that the Council begins the process of reviewing the following:

- Representation for Brandon to vary the existing PSPO to extend into areas of concern.
- Representation for Haverhill to vary the existing PSPO to extend into areas of concern.
- Representation for Moreton Hall to consider a stand alone PSPO in relation to antisocial driving within the estate.

4.1.3 The aim being to conclude the review by February 2021 and a recommendation made to Cabinet.

5. Alternative options that have been considered

5.1 The Council has no option but to review the existing PSPOs as it is a necessary part of the legal process, failure to do so will result in the PSPOs expiring in September 2020. Following this consultation, Cabinet will be asked to make a formal decision on this matter prior to the expiration of the existing PSPOs on 30 September 2020.

5.2 Alternative options were considered for the Dog Control Order, to simplify the procedure legal advice was taken as to merging the two existing orders into one covering West Suffolk. However, there is no provision in the legislation to enable the merging of separate PSPOs. Therefore, allowing the two existing Dog Control Order to expire and be replaced with a new West Suffolk Order is the only practicable way of ensuring a single Order for the whole West Suffolk District is in place from September.

6. Consultation and engagement undertaken

6.1 Initial consultation with stakeholders and proposed further consultation as outlined at 4.1, 4.2 and 4.3

7. Risks associated with the proposals

7.1 Public perception – negative perception of the impact of the PSPO: controlled through information provided and consultation process.

7.2 Reputation – no enforcement activity taken: controlled through working with the community and partners.

7.3 Review timescales not met – all orders expire if timescales not met: controlled through appropriate reporting and consultation.

- 7.4 Incomplete consultation due to COVID 19 – unable to conduct adequate consultation with partners and public which could lead to legal challenge: controlled through lengthy consultation and adaptations to usual consultation process to mitigate against non-engagement.

8. Implications arising from the proposals

- 8.1 Financial: Costs associated with any additional/replacement signage will be met from existing budgets.
- 8.2 Legal Compliance: Anti-Social Behaviour Crime and Policing Act 2014. Proposed orders will be drafted by the Council’s legal team.
- 8.3 Personal Data Processing: Yes, in accordance with enforcement protocols.
- 8.4 Equalities: There are no equality impacts as it applies equally to all.
- 8.5 Crime and Disorder: The PSPOs are a deterrent to anti-social behaviour.
- 8.6 Environment or Sustainability: Not applicable.
- 8.7 HR or Staffing: Not applicable.
- 8.8 Changes to existing policies: Not applicable.
- 8.9 External organisations (such as businesses, community groups): Suffolk Police, Suffolk FA and The Kennel Club

9. Appendices referenced in this report

- 9.1 Appendix A – Existing Public Space Protection Orders
- 9.2 Appendix B – Maps and data identifying where current orders are

10. Background documents associated with this report

- 10.1 Report numbers: [OAS/SE/17/002](#) and [OAS/FH/17/003](#)
- 10.2 Local Government Association Public Space Protection Orders Guidance for Councils