

**COMMUNITIES AND LOCAL SERVICES SCRUTINY COMMITTEE  
9 JUNE 2022**

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**PUBLIC SPACE PROTECTION ORDER - DARLINGTON TOWN CENTRE**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To seek Members' views on the renewal of the Public Space Protection Order (PSPO) for the Town Centre, which will be included in the report going to Cabinet on 22 June 2022.

**Summary**

2. In 2019, a PSPO was granted for Darlington town centre to assist in dealing with issues such as nuisance behaviour, begging and anti-social drinking. The Order subsequently expired in February 2022. The PSPO has been effectively used over the last three years, however there are still ongoing issues that need to be addressed and the renewal of the PSPO can assist the Council, Police and partners in dealing with some of these issues.
3. A PSPO can place restrictions on behaviour and if individuals breach these conditions, they could be liable to punishment by a fine of up to £1,000 (or £500 in the case of consumption of alcohol) or a Fixed Penalty Notice (FPN) of up to £100.
4. Consultation on the renewal of the PSPO in Darlington Town Centre was undertaken from 7 March 2022 to 2 May 2022. There was only one public response which was received from Liberty. Further details of the responses are detailed in paragraphs 29 and 30.
5. A copy of the draft PSPO is attached at **Appendix 1** and a copy of the map covering the PSPO area is attached at **Appendix 2**.

**Recommendation**

6. It is recommended that Communities and Local Services Scrutiny Committee provide their views back to Cabinet to be included as part of the consultation on the introduction of the renewal of the town centre PSPO.

**Dave Winstanley  
Group Director of Services**

**Background Papers**

- (i) ASB, Crime and Policing Act 2014
- (ii) ASB, Crime and Policing Act 2014 (Publication of Public Space Protection Orders) Regulations 2014 No 2591
- (iii) ASB, Crime and Policing Act 2014, Anti-Social Behaviour Powers, Statutory Guidance, updated December 2017

(iv) Public Spaces Protection Orders, Guidance for Councils, Local Government Association 2018

Ian Thompson / Anna Willey : Extension 6628/6756  
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S17 Crime and Disorder	A PSPO will have a positive effect on crime and disorder in the town centre.
Health and Wellbeing	Anti-social behaviour within the town centre can impact negatively on the health and well-being of individuals.
Carbon Impact and Climate Change	There is no impact on carbon as a result of this report.
Diversity	No particular group is impacted differently as a result of this report.
Wards Affected	Park East
Groups Affected	No particular group will be impacted differently as a result of this report.
Budget and Policy Framework	No impact on the Budget or Policy Framework.
Key Decision	No
Urgent Decision	No
Council Plan	An attractive, vibrant, safe town centre is an important part of the Perfectly Placed agenda in the Sustainable Community Strategy.
Efficiency	There is no impact on the Council's Efficiency agenda as a result of this report.
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers.

## MAIN REPORT

### Information and Analysis

7. Public Space Protection Orders (PSPOs) are a key element of the Anti-Social Behaviour, Crime and Policing Act 2014 which came into force in October 2014.
8. PSPOs are intended to limit and restrict activities which cause nuisance or lead to problems for a community, and as such allow Councils to make restrictions on activities which are judged to have a detrimental effect on the quality of life in an area. By design the orders are planned to allow people to enjoy open public spaces free from nuisance and anti-social behaviour.
9. The responsibility for making a new PSPO rests with the Council. The Council must, prior to making an order, be satisfied, on reasonable grounds, that activities 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 and that the effect or likely effect of the activities:
  - (a) Is or is likely to be persistent or continuing;
  - (b) Is or is likely to be such as to make the activities unreasonable; and
  - (c) Justifies the restrictions imposed
10. Before making a PSPO, the Council must carry out consultation with the local Police, the Police and Crime Commissioner, the owners and occupiers of any land included in the PSPO which is not in Council ownership and wider consultation with representatives from the local community. It must also publish the draft PSPO in accordance with Statutory Regulations.
11. Where a PSPO is in force, a Police Officer or Council Officer witnessing behaviour that breaches its conditions may challenge the individual(s) concerned and ask them to comply. If the individual does not comply with the request, an offence is committed.
12. An offence involving failure to comply with a PSPO is punishable by a fine of up to £1,000 (or £500 in the case of consumption of alcohol) or by a fixed penalty of up to £100.
13. In practice an offence is only committed if a person refuses to stop carrying out a prohibited activity when asked to do so by an authorised Council officer or Police officer. If the person follows the instruction, then no further action would be required. Any failure to comply with the instruction to desist from the prohibited activity would generally in the first instance lead to a fixed penalty notice (FPN) being issued rather than a court appearance.
14. A new PSPO if introduced would be for another three year period, at which time it must be renewed again, or it would cease. The Council would have the power to remove specific prohibitions or end a PSPO early, for example, if an activity no longer existed. If significant new issues arose during the PSPO then the Council can modify prohibitions.
15. The draft order is attached at **Appendix 1** and includes the following restrictions:

- (a) Persons acting in an anti-social manner who continue to drink alcohol in public places, which are not licensed premises, after they have been asked to stop.
- (b) Persons acting in an anti-social manner who fail to surrender any alcohol in their possession in public places, which are not licensed premises, when asked to do so.
- (c) Begging.
- (d) Threatening behaviour.

### **Local Intelligence**

- 16. The Police figures for the town centre are documented at **Appendix 3**. Although Table 1 shows that Anti-Social Behaviour figures in Darlington town centre for 2021/2022 are lower than 2018/2019 (when the PSPO was obtained), all categories of ASB are beginning to increase again following the lifting of restrictions after the pandemic, therefore supporting the need to renew the PSPO. The data covers the main period of the Covid-19 pandemic and therefore needs to be interpreted with this in mind. It is expected town centre footfall will return to previous levels as recovery from the pandemic continues, with an increased focus on events and leisure as town centres continue to adapt and change. It is therefore considered necessary that the Police and Councils have a range of tools to manage and address anti-social behaviour.
- 17. The overall number of FPNs issued throughout the duration of the first PSPO was 95 for begging and 14 for alcohol related nuisance. Fines are used when all other engagement and warnings have failed to rectify behaviour.
- 18. Begging within the town centre has been tackled successfully by partners over recent years, the PSPO being a key part of this. Graph 1 in Appendix 3 shows the number of FPNs issued for begging and although the figures seem high, they were issued against persistent beggars when all other methods of warnings, support and engagement had been exhausted.

### **Youth Nuisance**

- 19. Youth nuisance remains a concern in relation to groups of young people in the town centre who are disruptive, loud and have lack of respect for members of the public, officers, and business owners.
- 20. Although some good progress has been made across the types of anti-social behaviour, there remains a need for a PSPO renewal to ensure issues continue to be addressed.
- 21. In relation to issuing a FPN for breach of a PSPO different arrangements will apply to those under 18 years of age who commit these offences. Those arrangements will be:
  - (a) **10-13 year olds**

FPNs will not be issued to persons under the age of 14 where an offence is witnessed but they should still be requested to stop the activity and both the juvenile, and their

parent/guardian, will be sent a formal warning so that the parent/guardian is aware of the situation.

**(b) 14 and 15 year olds**

If an offence is committed by a person who is 14 or 15, in the first instance they would be requested to stop the activity. If the request is complied with, a formal warning would be given, verbally at the time, and followed up in writing to both the juvenile and their parent.

If the activity is not stopped then an FPN would be issued to the individual and the parent/guardian informed.

Note: Prior to the FPN being issued, consultation will take place with the Youth Offending Service as to whether this is an appropriate course of action. FPNs would only be issued if absolutely necessary and other more appropriate action would be sought.

**(c) 16 and 17 year olds**

If an individual who is 16 or 17 commits an offence, then the individual will be issued with a FPN and the parent/guardian informed. Consultation again will take place with the Youth Offending Service as to whether this is an appropriate course of action, before the FPN is issued.

In every instance where a FPN is issued to an under 18, consideration can be given to reparation, such as a supervised litter pick, as an alternative to payment of the FPN. This option will be communicated to under 18s and their parent/guardian at the time of the FPN being sent out to them.

### **Threatening and Intimidating Behaviour**

22. Table 3 at Appendix 3 shows the Police data for Violence Against the Person crimes and Public Order offences. As previously mentioned in the report, the figures recorded during lockdown are lower than in 2018/19 when the PSPO was implemented, however lockdown figures should not be relied on as a true picture. In current year 2021/22, to date there have been 489 Violence Against the person crimes compared to 491 in 18/19 when the PSPO was implemented. Therefore, the evidence supports a renewal of the order inclusive of Threatening and Intimidating Behaviour.

### **Begging**

23. A significant amount of good work has taken place over the last three years through the multi-agency begging group to address begging in the town centre providing advice and support to beggars prior to taking any formal action
24. The PSPO has been an integral part of the multi agencies response to manage begging in Darlington. Enforcement of begging does not work in isolation and in Darlington, agencies are working together to support individuals who feel the need to 'beg'. The Council have been working with a range of partners, including the 700 Club, NECA Drug and Alcohol

Support Services and the Police, and have worked to the Begging strategy over the last three- four years to deal with begging. The strategy is split into four sections: Empathy, Engagement, Education, and Enforcement. Empathy with the needs of those begging, Engagement with the offenders to offer services and support, Education to the public and then Enforcement only on those who persistently beg and refuse to engage with services. As a result we have seen significant reductions in those begging by following the strategy. Issuing a fine to someone begging would only be used as a very last resort and only used when all other methods of engagement and support have been exhausted.

25. There is a significant amount of support in place for those individuals who unfortunately find themselves homeless and in need of help from a variety of agencies. The powers within the PSPO will allow the Police and authorised officers of the Council to deal with those individuals who beg simply for financial gain and must be noted that enforcement is used as a last resort.

### **Nuisance Drinking**

26. Table 4 at Appendix 3 shows the number of alcohol related incidents in Darlington town centre. Again, as discussed for other offences and crimes within the report, the figures for 2020/21 during lockdown are unreliable for reasons previously mentioned. The evidence within the document supports the need for the PSPO, figures for alcohol related incidents are 743 for 2021/22 and incidents linked to licensed premises are 382. Although the figures are slightly lower than 2018/19 when the PSPO was introduced they remain at a high level, therefore the PSPO is considered to be required to assist in dealing with these offences.

### **Benefits**

27. The town centre PSPO was a positive 'tool' enabling the Police to deal with anti-social behaviour within a designated area. It contributed to making Darlington a more attractive and safer place to live, work and visit and like the previous PSPO, any new Order will enable the Police and other designated officers to deal more effectively with disorder, for example, confiscating alcohol from adults. Darlington is a family friendly market town and the PSPO will help preserve and encourage development. It can be justified based on the evidence of the review. However, it should be noted that once a PSPO is in place it still requires policing and that requires resources to which the Police give their full support. The Order can only be effective if breaches are acted upon.

### **Consultation**

28. An eight-week consultation exercise took place from 7 March 2022 to 2 May 2022. Consultation was undertaken as follows:
  - (a) Council web pages
  - (b) Town centre business consultation
  - (c) Social media
  - (d) Police
  - (e) 700 Club

29. The Police are in full support of a PSPO renewal. Similarly, the 700 Club are also in full support. As mentioned at paragraph 23, the Council have a 'Begging Group' which includes Police, 700 Club, Housing Services, Drug and Alcohol Support, who work collaboratively to address the issue of begging. The group members are in support of the PSPO renewal.
30. Some valid comments have been received from Liberty in relation to the obstruction element of the PSPO. They have expressed concern around peaceful protests and interference with Human Rights. Careful consideration has been given in relation to this and based on little supporting evidence and the lack of use in the previous three years, the decision has been taken to remove it from the proposed order.
31. No other responses have been received in relation to the consultation for the PSPO.
32. The Communities and Local Services Scrutiny Committee are asked to provide their views on the renewal of the PSPO, which will be included in the Cabinet report for Members to consider as part of the decision-making process.