
PUBLIC SPACES PROTECTION ORDER DARLINGTON TOWN CENTRE

**Responsible Cabinet Member(s) – Councillor Bill Dixon, Leader
Councillor Chris McEwan, Economy and Regeneration Portfolio Councillor**

**Responsible Director - Ian Williams
Director of Economic Growth and Neighbourhood Services**

SUMMARY REPORT

Purpose of the Report

1. This report is an initial report to Cabinet to highlight the potential benefits from introducing a Public Space Protection Order (PSPO) in Darlington Town Centre.
2. This report seeks authority from Cabinet to proceed with wider public consultation on the implementation of a Public Space Protection Order.

Summary

3. Anti-social behaviour nationally appears to be on the increase and like many other towns this does have an impact on businesses in the town centre and visitors. The Council have worked closely with partners, particularly the Police in recent months and a number of actions have taken place that have had a positive impact, however there are still ongoing issues that can be addressed through a PSPO. 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 of up to £100.

Recommendation

4. It is recommended that Members endorse the consultation period of 12 weeks prior to a further report coming back to Cabinet to consider implementation of a PSPO for Darlington Town Centre.

Reasons

5. To enable consultation to take place prior to Cabinet making the final decision on whether or not to introduce a PSPO for Darlington Town Centre.

**Ian Williams
Director of Economic Growth and Neighbourhood Services**

Background Papers

No background papers were used in the preparation of this report.

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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 Well Being	Anti-social behaviour within the town centre can impact negatively on the health and well being of individuals.
Carbon Impact	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
One Darlington: Perfectly Placed	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	There is no impact on Looked After Children and Care Leavers as a result of this report.

MAIN REPORT

Information and Analysis

6. PSPOs are a key element of the Anti-Social Behaviour, Crime and Policing Act 2014 which came into force in October 2014.
7. 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. They are to replace current controls on the drinking of alcohol in public places and matters such as dog fouling and the keeping of dogs on leads as a result of the phasing out of existing Designated Public Places Orders (DPPOs) and Dog Control Orders (DCOs) but a range of other activities can also be addressed, depending upon particular local issues. By design the orders are planned to allow people to enjoy open public spaces free from nuisance and anti-social behaviour.
8. 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.
9. 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.
10. Where a PSPO is in force, a Police Officer, Police Community Support 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.
11. 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.
12. 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 being issued rather than arrest or court appearance.

13. Any PSPO introduced would be for a 3 year period at which time it must be renewed 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.
14. It is a requirement that the introduction of a PSPO is a Cabinet decision.

Local Intelligence

15. Anti-Social Behaviour in Darlington Town Centre is increasing. In the last three months, Police have received 142 complaints relating to anti-social behaviour in Darlington Town Centre. Examples of this anti-social behaviour are begging, youth related nuisance, alcohol related nuisance, particularly associated with the seating area adjacent to the Boot & Shoe/St Cuthbert's Churchyard. These are a particular concern as the area is highly visible with individuals collecting around the seating, drinking alcohol, being loud, disruptive and abusive towards other individuals using the town. The Police and Council have taken action to address the particular problem with some success, however it is area where anti-social behaviour continues.
16. Begging within the town centre has increased within the last 12 months. Whilst we recognise that some beggars often need long term help and support and referrals are made, they can be intimidating to the public and detrimental to businesses by putting shoppers off entering shops where they congregate. It has been found that some beggars within the town centre are from out of the area and seem to have been displaced from other Local Authority areas where action has been taken against them. Police have taken action against a few individuals who have been persistent and aggressive to visitors within the town centre after numerous warnings.
17. Begging is an offence under the Vagrancy Act 1824 and can be enforced by the Police by way of arrest. The inclusion of controls on aggressive/pestering behaviour by beggars within the Order would provide the Police and other staff with an additional tool to regulate this behaviour and would provide an updated legal remedy, including the use of fixed penalty notices. This is likely to prove a more cost effective and proportionate approach to controlling this activity but will also allow the partnership to ensure action is taken against those persistent offenders but also support necessary referrals to be made for any genuine vulnerable individuals identified.
18. Youth nuisance may also be considered as part of a PSPO, however this will be scoped out further, taking into account the types of 'youth nuisance' reported in Darlington Town Centre. One of the main concerns is the loud and abusive behaviour from groups of young people in the town centre who have lack of respect for members of the public, officers and business owners.

Benefits

19. A Public Space Protection Order is a positive 'tool' enabling the Police to deal with anti-social behaviour within a designated area. This will contribute to making Darlington a more attractive and safer place to live, work and visit. Darlington is a family friendly market town to which the PSPO will help preserve and encourage development. PSPO publicity will stress the positive approach enabling the Police and other designated Officers to deal more effectively with disorder, for example confiscating alcohol from adults. It must be noted however that once a PSPO is in place it still requires policing which requires resources to which the Police have given full support. The Order can only be effective if breaches are acted upon.

Financial Implications

20. No financial implications as a result of introducing a PSPO in the town centre, other than diverting existing resources to the policing and monitoring of the Order.

Legal Implications

21. Under section 66 of the Anti-Social Behaviour, Crime and Policing Act 2014 an individual who lives in the restricted area or who regularly works in or visits that area may apply to the High Court to question the validity of a PSPO. The grounds on which an application under this section may be made are either that the local authority did not have the power to make the order, or to include particular prohibitions or requirements imposed by the order; or that a requirement under the 2014 Act was not complied with.
22. If an application under this section the High Court is satisfied that - (a) the local authority did not have power to make the PSPO, or to include particular prohibitions or requirements imposed by it, or (b) the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement under the 2014 Act, the Court may quash the PSPO or any of the prohibitions or requirements imposed by it. It is therefore important that a thorough consultation exercise is carried out in order to mitigate the risk of such a challenge should a decision ultimately be made to introduce a town centre PSPO.

Consultation

23. Consultation has taken place with the Police with regard to introducing the PSPO in the town centre who are supportive of introducing the Order. Subject to Members' approval, full consultation will take place with stakeholders, partners and residents with regard to the introduction to a PSPO. This consultation will then be reported back to Members prior to making the final decision as to whether or not to introduce a PSPO in the town centre.