

SUBJECT:	<i>Introduction of Public Spaces Protection Order (PSPO)</i>
REPORT OF:	<i>Councillor Liz Walsh - Cabinet Member for Community, Health & Housing</i>
RESPONSIBLE OFFICER	<i>Martin Holt, Head of Healthy Communities</i>
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WARD/S AFFECTED	<i>All</i>

1. Purpose of Report

To propose the introduction of a Public Spaces Protection Order (PSPO).

The Cabinet is asked to agree the following recommendation(s):

RECOMMENDATIONS:

- 1. To approve the draft Public Spaces Protection Order; and**
- 2. To delegate authority to the Head of Healthy Communities in conjunction with the Head of Legal and Democratic Services to undertake the three yearly review of the Public Spaces Protection Order and implement any changes as required.**

2. Executive Summary

Public Spaces Protection Orders (PSPOs) are one of a number of powers introduced by the Anti-Social Behaviour, Crime and Policing Act 2014. They are designed to stop individuals or groups committing anti-social behaviour in a public space which is having or is likely to have a detrimental effect on the quality of life of people in the area.

At its meeting of 27th June 2017 the Cabinet agreed to the use of a PSPO to manage the anti-social behaviour experienced by residents and users in a number of specified car parks within the Chiltern District area. Members were concerned about the potential for displacement of anti-social behaviour to other car parks within the District which were not included in the original list and requested that a PSPO to cover all car parks in the district be introduced subject to consultation. The consultation process has been completed and Members are asked to approve the draft Public Spaces Protection Order. The draft Order has also been reviewed by the Healthy Communities PAG.

3. Reasons for Recommendations

When Public Spaces Protection Orders (PSPOs) were introduced by the Anti-Social Behaviour, Crime and Policing Act 2014, Councils were granted three years to remove any current Designated Public Place Orders (DPPOs) or they will automatically become PSPOs in October 2017.

An informal consultation was undertaken last year and Thames Valley Police requested that a PSPO be introduced to manage and control the anti-social behaviour that local residents and car park users were experiencing as a result of young people gathering in the car parks and causing harassment and alarm to local residents and car park users by their behaviour. The recommendation to the Cabinet in June 2017 was for a single PSPO that would include restrictions on both dog control and misuse of the car parks. However, for ease of enforcement and administration it is considered more appropriate to have separate PSPOs for these activities.

Once introduced, a PSPO has to be reviewed within three years, after which a PSPO can be extended, varied or discharged. A similar consultation process has to be undertaken at this time. For effective administration, it is recommended that if there are no changes as to the extent and nature of the PSPO and it is still considered appropriate for it to remain in effect; or for it to be discharged following the review and consultation, it is recommended that the PSPO is extended or discharged, as appropriate, through delegated authority. In other circumstances approval will be sought from Cabinet.

4. Content of Report

Public Spaces Protection Orders (PSPOs) are one of a number of powers introduced by the Anti-Social Behaviour, Crime and Policing Act 2014. They are designed to stop individuals or groups committing anti-social behaviour in a public space which is having or is likely to have a detrimental effect on the quality of life of people in the area.

For a Public Spaces Protection Order to be introduced to deal with particular behaviour, the behaviour being restricted has to meet a test which is designed to be broad and focused on the impact anti-social behaviour is having on victims and communities. A PSPO can be made by the council if satisfied on reasonable grounds that the activities carried out, or likely to be 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;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed.

When assessing what is 'unreasonable' activity, local authorities need to balance the rights of the community to enjoy public spaces without experiencing anti-social behaviour with the civil liberties of individuals and groups who may be affected by any restrictions imposed. Therefore local authorities must have regard to the freedoms guaranteed under the Human Rights Act 1998 in terms of freedom of expression and freedom of assembly and association. An Equality Impact assessment has been undertaken **[Appendix 1]**. Members will note that a negative effect has been identified on the basis of age. Whilst the majority of complaints received relate to youths gathering in car parks and causing anti-social behaviour, the PSPO is not targeted at young people but the behaviour that is being demonstrated. However it is recognised that there is an unintentional impact on young people but this adverse impact is objectively justified by the fact that it only seeks to prevent anti-social behaviour, to the benefit of the safety and well-being of all.

During the period of informal consultation, a request was received from Thames Valley Police for a new PSPO which placed restrictions on people and vehicle misuse in a number of car parks within Chiltern DC area. This was as a consequence of significant reports of anti-social behaviour to the police from local residents and car park users. Evidence was submitted in the form of police reports of anti-social behaviour from individuals and anti-social use of vehicles in the car parks **[Appendix 2]**. In addition, the Car Parks Manager has had to take measures to control the anti-social behaviour including the employment of security staff in the evenings, improved CCTV provision and improved lighting.

Thames Valley Police sought the following restrictions:

Prohibition of Highway and Vehicle misuse

A prohibition from performing the following activities, being a driver of, or being carried in (or on), a motor vehicle within the specified area and

- a) Revving of engine(s);
- b) Speeding;
- c) Sudden or rapid acceleration;
- d) Driving in convoy;
- e) Racing;
- f) Leaving the engine of a stationary motor vehicle to run idle (as to cause a public nuisance);
- g) Performing stunts;
- h) Sounding horns (as to cause a public nuisance);
- i) Playing music (as to cause a public nuisance);
- j) Causing obstruction on a public highway, whether moving or stationary,

Which causes or is capable of causing, any of the following consequences:

- i) Excessive noise;
- ii) Danger or risk of injury to road users (including pedestrians);
- iii) Damage or significant risk of damage to property;
- iv) Risk of harm;
- v) Public nuisance; or
- vi) Annoyance to the public.

Prohibitions Persons:

Prohibited from within the specified area:

- a) Using threatening, intimidating behaviour towards another person
- b) Using foul and abusive language.
- c) Gathering / loitering in groups of two or more persons without reasonable purpose.

Which causes or is capable of causing, any of the following consequences:

- i) Excessive noise;
- ii) Risk of harm;
- iii) Public nuisance; or
- iv) Annoyance to the public.

At the Cabinet meeting of 27th June 2017, Members were concerned about potential displacement of anti-social behaviour to other car parks in the District. Government guidance states that local authorities should consider whether a prohibition in one area will displace the

problem behaviour elsewhere and the legislation allows for Orders to address activity that is likely to occur in a public place. In so doing, local authorities still need to ensure that a proportionate approach is taken overall and that there is evidence to support using a broader approach. Therefore the draft Order that was consulted upon had an extended list of car parks included. In addition to the CDC car parks, other car parks were added including the NCP car park at Chesham rail station, Cheena Meadow car park in Chalfont St Peter where there had been problems in the past and Moor Road car park, Chesham at the request of Chesham Town Council. Also as part of the informal consultation, additional restrictions were added to the original draft namely, maintaining, repairing, servicing or washing a vehicle, skating, skateboarding, or cycling and sleeping, cooking or camping. Maps of the areas to be covered by the proposed Public Spaces Protection Order (to form the appendix to the PSPO) are at **Appendix 3**.

5. Consultation

Local authorities are obliged to consult with the local chief officer of police, the Police and Crime Commissioner, owners or occupiers of land and appropriate community representatives. The county council and town and parish councils must also be notified. Additional requirements apply where public rights of way over a highway are restricted or where the PSPO affects 'common land'.

A consultation was undertaken across Chiltern between 14th February and 30th March 2018. An email was sent containing a link to the consultation web page, inviting opinions on the proposed introduction of the PSPO. The consultation page included the draft PSPO and maps of the affected areas. An email was sent out to all Town & Parish Councils, District Councillors, Thames Valley Police, the Police and Crime Commissioner, Community Associations, and other interested parties (Planning Inspectorate, NCP, Paradigm Housing Association, Bucks CC Highways and Rights of Way and relevant internal departments at Chiltern District Council). A link was also put on the main Chiltern website.

Responses were received from a range of people including residents living adjacent to car parks, car park users, police officers, councillors, parish and town councils and the County Council. Responses were also received from the Police and Crime Commissioner, Sustrans and the Planning Inspectorate. The responses from the consultation together with relevant comments are in **Appendix 4**. **Appendix 5** is a current record from Thames Valley Police of incidents at the Amersham multi-storey car park.

The majority of responses were positive and in support of the proposed PSPO, although there were some against the PSPO, or who wished to see amendments. The Police and Crime Commissioner supported the proposal. Sustrans and the Rights of Way Officer of Bucks County Council had concerns about the prohibition of cycling in car parks (3.2). Many car parks have legitimate access for cycles, for example to reach destinations which the car park serves or as part of a route to a more remote destination. The intention of the restriction is not to prohibit the legitimate use of the car park, but to control anti-social behaviour, for example riding bikes in an intimidating manner, blocking cars entering and exiting the car park, being threatening and riding too close to pedestrians etc. that causes distress and anxiety to other car park users. Therefore the draft PSPO has been amended to make this restriction more explicit. Similarly, it is clear that skating and skateboarding in the Amersham

multi-storey car park is a major cause of anti-social behaviour. It is therefore recommended that there is a total ban on these activities, whilst noting that they could be displaced to other car parks. Following the consultation, these car parks have also been used for the playing of ball games such as to cause anti-social behaviour. Members are also reminded that if groups are gathering 'in car parks in a manner which is (or may reasonably be perceived as) intimidating or threatening to any other member of the public', then this is covered by the Order. Requests were also received concerning other car parks managed by parish councils, however no evidence was received which would support the introduction of a PSPO to cover these areas at this time. However, as part of the review process, a PSPO could be amended in future to include other areas if there is evidence that anti-social behaviour is displaced to these car parks. Similarly, requests were received to include car parks which did not fall within the definition of a public space and so have not been included. A public space is defined as 'any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission'.

In relation to the additional restriction on cooking, sleeping and camping, maintaining, repairing, servicing or washing a vehicle, the civil enforcement of the Traffic Management Act 2004 only allows a local authority to issue notices for certain contraventions. These do not include maintaining, repairing, servicing or washing a vehicle, cooking, sleeping or camping in a car park. Following the consultation, no other evidence was provided of such anti-social behaviour. While members of the Healthy Communities PAG raised examples where this has caused anti-social activity, following legal advice, it is not considered that this is sufficient to meet the legal tests referred to in paragraph 4. Therefore it is not recommended that the PSPO includes restrictions on these but this particular aspect should be reviewed after a year of implementation.

Moor Road car park, Chesham is on common land and so the Planning Inspectorate was consulted. Their view was that because the proposals are to control behaviour on common land other than by physically impeding or preventing public access, there was no need to consult with them further.

6. Options

Following the consultation and the evidence provided, there is overwhelming support for the introduction of a Public Spaces Protection Order for restrictions on vehicle use and individual behaviour to address complaints of anti-social behaviour at car parks within the Chiltern DC area. The final draft PSPO is appended at **Appendix 6** and incorporates the outcome of the consultation and takes account of legal advice following the Healthy Communities PAG recommendations.

7. Corporate Implications

- 3.1 Financial: There are financial implications in setting up the PSPO, not expected to exceed £3,000 depending on the amount of signs required. Signs will have to be erected in areas with restrictions. Costs will be met from existing resources. If FPNs are issued then there may be a small amount of income received.
- 3.2 Legal: The legal requirements for the introduction of a new public spaces protection order have been followed.

- 3.3 Crime and Disorder: The PSPO should deter anti-social behaviour from taking place and will enable the effective control and enforcement of anti-social behaviour.
- 3.4 Environmental Issues: There is likely to be an improvement in terms of noise nuisance experienced by local residents and reduced anti-social behaviour in the car parks themselves providing a safer environment for users.
- 3.5 Partnership: An extensive consultation has taken place with relevant parties and amendments made where appropriate.

8. Links to Council Policy Objectives

We will deliver cost effective, customer focused services

Listen to our customers

- Consult with you on key issues and respond to results

We will work towards safe, healthy and cohesive communities

Improve community safety

- Work with partners to reduce crime and antisocial behaviour and to improve community safety

We will strive to conserve the environment and promote sustainability

Promote sustainability

- Promote a healthy, sustainable and safe built environment

9. Next Step

If approved the Public Spaces Protection Order will be published on the Council's website and will come into force for an initial three year period. Signage will be produced for the car parks covered by it, advertising the nature of the PSPO and the consequences of breaching it and protocols will be developed between the Council and Thames Valley Police in terms of enforcement.

Anyone who lives in, or regularly works in or visits the area can question the validity of a PSPO in the High Court within six weeks of the Order being made.

10. Appendices

Appendix 1 – Equality Impact Assessment

Appendix 2 – Initial evidence of anti-social behaviour incidents submitted by Thames Valley Police

Appendix 3 – Maps of areas to be covered by the proposed PSPO (to form the Appendix to the PSPO)

Appendix 4 – Table of consultation responses

Appendix 5 – Record of incidents at Amersham multi-storey car park

Appendix 6 – Proposed Public Spaces Protection Order