

Taunton Deane Borough Council

Full Council – 14 July 2015

Public Space Protection Order, Taunton

Report of the Community and Client Services Manager

(This matter is the responsibility of Executive Councillor Warmington)

1. Executive Summary

Taunton Deane Borough Council is proposing a Public Space Protection Order covering the town centre and surrounds (see attached map). It requires authorisation by Full Council. It is broadly a 'ban' on alcohol and new psychoactive substances – 'legal highs' - in the town. Constitutionally, Full Council must authorise this Order for it to have correct legal status. The report also includes proposals for an Order for Wellington.

2. Recommendations

- To authorise the Public Space Protection Order for Taunton;
- Delegate responsibility for signing off the Public Space Protection Order for Wellington to Portfolio Holder decision; subject to formal public consultation and approval from Wellington Town Council;
- Delegate responsibility for future amendments to either Order to Portfolio Holder decision; and
- Delegate decisions on new Public Space Protection Orders to Portfolio Holder subject to formal public consultations having taken place.

3. Background and Full details of the Report

- 3.1 Historically, Taunton Deane had a 'No Drinking Byelaw'. This made it an offence to drink alcohol in the town centre.
- 3.2 This Byelaw was replaced by a Designated Public Place Order under sections 13 and 14 of the Criminal Justice and Police Act 2001.
- 3.3 In October 2002, a Designated Public Places Order was also introduced in Wellington.
- 3.4 The new power had very similar effects and so very little change was required except over time to the areas covered in Taunton which has been

extended to cover much of Holway and Halcon, as well as Victoria Park.

- 3.5 In October 2014, the Anti-Social Behaviour, Crime and Policing Act 2014 was enacted. This widened the range of activities that could be covered as well as changing the name to a Public Space Protection Order (PSPO). It also meant that the existing Designated Public Place Order could continue until October 2017 but would need to be changed to the new power or revoked by that date.
- 3.6 It is intended to be a flexible power which is able to respond to local needs.
- 3.7 To introduce a PSPO, there is a burden of proof with two conditions:-

(Section) 59 Power to make orders

(1) A local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.

(2) The first condition is that—

(a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or

(b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

(3) The second condition is that the effect, or likely effect, of the activities—

(a) is, or is likely to be, of a persistent or continuing nature,

(b) is, or is likely to be, such as to make the activities unreasonable, and

(c) justifies the restrictions imposed by the notice.

- 3.8 During 2014, it became apparent that there were two 'legal high' shops open in Taunton. This is the more common name for new psychoactive substances. Between them, they were responsible for a large spike in anti-social behaviour incidents and Taunton became well known in a short space of time for having a legal high 'problem'.

Legal highs were being openly taken in public and a great number of syringes were found, often in very public places. The Police and partners met to discuss the issue. Anecdotal evidence from the Police, parks, public toilets and even the Tourist Information Centre provided a clear outline of a problem. Several high profile incidents occurred which damaged the reputation of the town. It became clear that action was required.

The Police were able to successfully persuade one shop owner to stop selling them but the other persisted. They were served a Community Protection Notice and ultimately a Community Protection Order was upheld in Court; being renewed for a further 3 months, to make 6 months

in total. This expired in the middle of June but to date the shop has not re-opened.

3.9 The City of Lincoln was first to use the new legislation to create a Public Space Protection Order and have used the phrasing that:-

Person(s) within this area will not:

- *Ingest, inhale, inject, smoke or otherwise use intoxicating substances.*

Intoxicating Substances is given the following definition (which includes Alcohol and what are commonly referred to as 'legal highs'): Substances with the capacity to stimulate or depress the central nervous system.

Exemptions shall apply in cases where the substances are used for a valid and demonstrable medicinal use, given to an animal as a medicinal remedy, are cigarettes (tobacco) or vaporisers or are food stuffs regulated by food health and safety legislation.

Persons within this area who breach this prohibition shall: surrender intoxicating substances in his/her possession to an authorised person

This appears to cover the behaviours that Taunton Deane wishes to challenge, with our partners and so this has formed the basis of the Order.

Alcohol use remains an issue around the town and for this reason, it has stayed part of the behaviour being addressed.

3.10 For reasons outlined above, the Council is satisfied, with partners that the burden of proof for introducing the Order is met and furthermore that the benefits on the wider public of introducing such an Order outweigh the rights of individuals to behave in this way.

3.11 Home Office guidance requires consultation to have taken place before the introduction of such an Order and this was completed in April 2015, with a press release and consultation via the Taunton Deane website. Additionally, town centre businesses were made aware and Community Scrutiny Committee discussed the issue. The Police have been aware and supportive throughout, helping define the areas covered. The Police and Crime Commissioner's Office supports the move, as do the County Council through their Highways and Community Safety functions. Public response to the issue was limited to just over 30 replies but all of these were in favour of the move.

3.12 Wellington also has a Designated Public Place Order (DPPO). Wellington Town Council were consulted on what they wished to do with their DPPO earlier in June. Their desire is to convert it into a PSPO with the same terms and conditions as Taunton. The Police support this view. The Community Safety sub group of Wellington Town Council will look into the matter further. The matter will need to satisfy the same criteria. Although Wellington has not had persistent problems with legal highs, alcohol problems persist and legal high use is thought to be increasing. It is therefore likely to pass the test.

- 3.13 Consultation in Wellington with the wider public is likely to take place in September of this year. It is proposed to delegate the final decision on this to a portfolio holder's decision rather than seek the time of Full Council.
- 3.14 In the future, the Psychoactive Substances Bill may affect the legal status of these and there may be a requirement for some adjustment. The Bill began committee stage, line by line scrutiny, in the Lords on Tuesday 23 June 2015. It is likely to become law but timescales are unclear at this stage.
- 3.15 Varying the PSPO(s) is a simple matter once they are in and does not need to go back to public consultation. It is also proposed to delegate this to a portfolio holder's decision.
- 3.16 Enforcement will largely be carried out by Police officers (including PCSO's) but can also be carried out by Council officers who already issue fixed penalty notices.

4. Finance / Resource Implications

- 4.1 The costs of 300 signs for Taunton was £3,594 which was financed through an earmarked reserve of £10,000 set aside for this purpose. This will also have covered the costs of the DLO putting the signs up, although those costs have not yet come through.
- 4.2 Wellington costs are likely to be in the region of £2,000 plus the DLO.
- 4.3 Any costs over £10,000 in total can be covered within existing resources.

5. Legal Implications

- 5.1 The use of the powers under the 2014 legislation by definition potentially represents an infringement of individuals' human rights, including the right to respect for private life and the right to freedom of assembly and association. However, it is considered that these qualified rights may in this instance be legitimately interfered with in the interests of public safety and in accordance with the law.

6. Links to Corporate Aims / Priorities

- 6.1 To achieve the vision of 'a Quality Place', the Council has broken this down into three corporate aims. The Public space Protection Order in Taunton would contribute to each of these.

- Aim 1) Quality sustainable growth and development
- Aim 2) A vibrant economic environment
- Aim 3) A vibrant social, cultural and leisure environment

7. Environmental Impact Implications

7.1 None.

8. Community Safety Implications

8.1 This is a measure which is designed to continue tackling alcohol misuse in the town centre of Taunton, which is a long-term, successful measure.

8.2 Further it is intended to tackle the emerging problem of new psychoactive substances ('legal highs').

8.3 In Wellington, there is not the same problem with legal highs, but it is anticipated that as an adjacent town, there could be displacement here.

9. Equality and Diversity Implications

9.1 There are no equality and diversity implications here. This Order is not aimed at a particular group or protected characteristic.

10. Safeguarding Implications

10.1 The Order is likely to mean less exposure of young people to harm.

11. Risk Assessment

11.1 There is a low risk to the Council in undertaking this Order. This relates to potential challenge that it is unlawful or unduly restricts people's rights.

11.2 There would be a reputational risk in not undertaking the Order if further harms were caused in the town(s) by legal highs.

12. Partnership Implications (if any)

12.1 The Police have been involved in and support these measures.

13. Health and Wellbeing Implications (If any)

13.1 None

14. Asset Management Implications (if any)

14.1 None

15. Consultation Implications (if any)

15.1 Consultation has occurred in Taunton as described above and is anticipated to be carried out in Wellington in September.

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