

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Report to the Community Overview and Scrutiny Panel

13 February 2017

TITLE:	Consultation on a Proposal to Introduce a Public Spaces Protection Order in the area around the Millennium Gardens, Biddulph
PORTFOLIO HOLDER:	Cllr Mike Bowen - Portfolio Holder for Communities
CONTACT OFFICER:	Executive Director (People) and Monitoring Officer
WARDS INVOLVED:	All

Appendices Attached

Appendix A Draft Consultation Document

Appendix B Draft Public Spaces Protection Order

1. Reason for the Report

The area around the Millennium Gardens/Sainsbury's in Biddulph attracts relatively high levels of anti-social behaviour that continue to have a detrimental effect on the quality of life of those in the locality. Following partnership work with Staffordshire Police, it is considered that a Public Spaces Protection Order would assist in stopping individuals or groups committing anti-social behaviour in the area.

2. Recommendation

2.1 That the Panel recommends that the Cabinet instructs Officers to carry out formal consultation on a proposed Public Spaces Protection Order to prevent on-going anti-social behaviour in and around the Millennium Gardens in Biddulph.

3. Executive Summary

- 3.1 The area around the Millennium Gardens has attracted relatively high levels of anti-social behaviour. This has generally involved young people ranging between the ages of approximately 11 and 18 years of age. The behaviour affects legitimate users of the Millennium Gardens, shoppers at Sainsbury's (including those using the car park), users of the nearby Methodist Chapel (which includes community activities such as Girl Guides, Brownies and Rainbows) and general members of the public.
- 3.2 There were 34 incidents reported to the police in the period between 1st January and 14th October 2016. Most of the reported incidents involved groups of young people with approximately 40 young people congregating in the area on one occasion in October. The monument in Millennium Gardens has been damaged on two occasions.
- 3.4 A Public Spaces Protection Order (PSPO) is designed to stop individuals or groups committing anti-social behaviour in a public space in order to prevent or reduce any detrimental effect caused by those activities to local people. The District Council has the power to make such an Order, which can last for up to 3 years (but can be extended and/or varied), if certain conditions are met.
- 3.5 Following discussions with Staffordshire Police, it is believed that the introduction of a Public Spaces Protection Order can be justified for the area around the Millennium Gardens because the problems encountered at that location have a detrimental effect on the quality of life of those in the locality and are of a continuing nature. A draft Order is provided at Appendix A.

4. How this report links to Corporate Priorities

- 4.1 The proposed introduction of a Public Spaces Protection Order to help reduce nuisance behaviour in and around Millennium Gardens in Biddulph would assist the Council to achieve its corporate aim of helping to protect and improve the environment. It supports the priority outcome of quality open spaces and the corporate objective of high quality public amenities. The Order would generally support the creation of a safer and healthier environment for our residents and communities to live and work.

5. Options and Analysis

- 5.1 None at this stage – the report requests authority to consult of the proposed Order. Analysis of options will take place when the outcome of any consultation is known.

6. Implications

6.1 Community Safety - (Crime and Disorder Act 1998)

The making of the Public Spaces Protection Order would assist in reducing on-going nuisance behaviour in and around Millennium Gardens, Biddulph. It would help the Council to meet its duty to do all it reasonably can to prevent crime and disorder in its area under section 17 of the Crime and Disorder Act 1998.

6.2 Workforce

Enforcement of the Public Spaces Protection Order will largely be carried out by Staffordshire Police and through the issue of fixed penalty notices. District Council Officers may, however, become involved in facilitating the prosecution of individuals for any breaches of the Order in circumstances where a fixed penalty notice was not an appropriate response to the behaviour.

6.3 Equality and Diversity/Equality Impact Assessment

An assessment of the particular needs of people who use the area subject to the Order will take place after the results of the consultation exercise are known.

6.4 Financial Considerations

There will be a requirement to erect signage in and around the proposed location. The cost of the signage would be met from within existing budgets. It is hoped that the introduction of the Order will have a deterrent effect and, if there are any breaches, then these can be dealt with by means of a fixed penalty notice. However, the Council may incur costs if there is a need to prosecute an individual for breach of the Order.

6.5 Legal

The power to introduce a Public Spaces Protection Order (PSPO) is found at Section 59 of the Anti-social Behaviour Crime and Policing Act 2014. Before introducing an Order the Council must be satisfied that the following conditions have been met:

(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.

The aim of a PSPO is to make public spaces more welcoming to the majority of law abiding people and communities. This report seeks

authority to consult with the Chief Officer of Police, community representatives and the owner of the land and other relevant bodies on a proposed Order.

Section 59 (2) states that a public spaces protection order must:

- a) Identify the activities that have a detrimental effect on the quality of life of those in the locality;
- b) Explain the effect of the breach of any prohibition in the order on the consumption of alcohol (where appropriate) and the offence of failing to comply with an order;
- c) Specify the period for which the order has effect.

Section 3 has been added to the Order to set out the activities that have had a detrimental effect on the quality of life of those in the locality and thereby meet the requirements of point a) above.

Sections 5 and 6 of the Order explain the effect of the breach of any prohibition in the order on the consumption of alcohol and the offence of failing to comply with an order thereby meet the requirements of point b) above.

A constable or authorised person can request an individual not to consume alcohol in the restricted area or to surrender anything which the constable or authorised person reasonably believes to be alcohol or a container for alcohol. A person who fails to comply with these requirements commits an offence and is liable on a summary conviction to a fine not exceeding level 2 on the standard scale.

A person who fails to comply with a PSPO is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

In both cases, liability for the offence can be discharged by payment of a fixed penalty notice under s 68 of the Act.

Section 2 has been expanded to clarify that the Order will last for a period of three years thereby meeting the requirements of point c) above.

6.6 Sustainability

No specific implications.

6.7 Internal and External Consultation

The report seeks authority to proceed with the statutory consultation exercise.

6.8 Risk Assessment

No specific risks.

7. **Background and Detail**

- 7.1 The area around the Millennium Gardens/Sainsbury's attracts relatively high levels of anti-social behaviour. This has generally involved young people ranging between approximately 11 and 18 years of age. The behaviour affects legitimate users of the Millennium Gardens, users of the nearby Methodist Chapel (which includes those attending community groups such as Girl Guides, Brownies and Rainbows), shoppers at Sainsbury's (including those using the car park), and members of the general public.
- 7.2 The Millennium Gardens area provides formal seating, and there are also some areas of informal seating, which encourages people to congregate in the area. The underground part of the supermarket car park also provides some shelter in inclement weather. People can also take advantage of the free Wi-fi provided by Sainsbury's in the area surrounding the supermarket. This has served to attract large numbers of people to gather in the area (the police have witnessed up to around 50 people gathering in the area on occasions). Some young people have also committed criminal acts and other acts of anti-social behaviour in the area. At other times, it is just the sheer number of people congregating in the area that has caused a nuisance for the local community.
- 7.3 There were 34 incidents reported to the police in the period between 1st January and 14th October 2016. Most of the reported incidents involved groups of young people with approximately 40 young people congregating in the area on one occasion in October. The monument in Millennium Gardens has been damaged on two occasions.
- 7.4 Incidents that have been reported include:
- damaging windows; flower beds,
 - threats, intimidation;
 - noise nuisance;
 - racial abuse;
 - racing motor vehicles in the car park;
 - fighting;
 - underage drinking of alcohol;
 - smoking cannabis;
 - shouting;
 - throwing planters, mud/soil, bricks, eggs, snowballs; and
 - playing football on the highway.
- 7.5 In response to the problem, Staffordshire Police have carried out targeted patrols in the area but the problems at the location continue to occur.

What is a Public Spaces Protection Order?

7.6 A Public Spaces Protection Order (PSPO) is designed to stop individuals or groups committing anti-social behaviour in a public space. The District Council has the power to make such an order, which can last for up to 3 years (but can be extended and/or varied), if satisfied on reasonable grounds that two conditions are met:

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. .

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.

7.7 An Order can (a) prohibit specified things being done in the restricted area, (b) require specified things to be done by persons carrying on specified activities in that area, or (c) do both of those things.

7.8 The Act states that the only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order (a) to prevent the detrimental effect from continuing, occurring or recurring, or (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

7.9 The local authority must carry out consultation, publicity and notification before making a PSPO. The “necessary consultation” means consulting with the chief officer of police, the local policing body, “*whatever community representatives the local authority thinks it appropriate to consult*”; and the owner or occupier of land within the restricted area. The “necessary publicity”, in the case of a proposed Order (or variation) means publishing the text of it. The “necessary notification” means notifying the relevant town/parish council and the county council.

7.10 Once an Order has been made, the local authority must then publish a copy of the Order on its website and erect notices in the area drawing the attention of members of the public to the fact that the Order has been made.

7.11 There is scope within the Act for an interested party to challenge the making of an Order within the period of 6 weeks beginning with the date on which the Order or variation is made.

7.12 The authority to make Public Space Protection Orders has been delegated by the Council to the Cabinet.

Proposed PSPO for Biddulph

7.13 Following discussions with Staffordshire Police, it is agreed that the introduction of a Public Spaces Protection Order can be justified for the area around Sainsbury's/Millennium Gardens because the problems encountered at that location have a detrimental effect on the quality of life of those in the locality and are of a continuing nature.

Prohibition/Requirement	Justification
Congregating or loitering as part of a group of six or more people	One of the key factors of the anti-social behaviour in the area has been groups of young people congregating in the area
Playing football, other ball games or other sports.	Staffordshire Police has received complaints about people playing football in the area. It is not a suitable place for the playing of sports since it can cause nuisance to members of the public and possibly pose a danger to those playing football such as from vehicular traffic
Engaging in, promoting, encouraging or assisting in activities of vehicle racing, 'doughnutting', drifting, wheel spinning or other forms of vehicle nuisance.	Staffordshire Police has received complaints about vehicle nuisance.
Playing loud music such as to cause a nuisance for others. This does not include music associated with any activities organised by, or approved by, Biddulph Town Council or Sainsbury's Supermarket.	Staffordshire Police have received complaints about the nuisance caused by people playing loud music whilst congregating in the area
Throwing stones, eggs, street furniture or any other items such that it is likely to cause damage or alarm, distress, harassment or nuisance to others.	This has been a feature of the complaints received by the police and, amongst other things, is believed to have led to the damage to the monument in the gardens.
Consuming alcohol or being in the possession of alcohol in an unsealed container.	Staffordshire Police has received complaints about people consuming alcohol in the area and this is seen as a catalyst for other forms of anti-social behaviour.

Behaving in a manner that causes, or is likely to cause, alarm, distress or harassment to others.	This is a general prohibition to cover other forms of behaviour, not specifically covered in the above provisions, that have a detrimental effect on the quality of life of those in the locality
---	---

- 7.14 The Authority recognises that everyone has the right to freedom of expression, freedom of peaceful assembly and to freedom of association with others (Articles 10 and 11 of the Convention on Human Rights). However, the Authority believes that it is appropriate to make an Order in these circumstances in the interests of public safety and for the prevention of disorder or crime.
- 7.15 It is proposed that the District Council carry out formal consultation on whether to make a PSPO and, if so, what it should include as required by Section 72 of the Act.
- 7.16 A draft Order is provided at Appendix A. It is proposed that the Council formally consult with the Chief Officer of Staffordshire Police, the Police and Crime Commissioner for Staffordshire, Staffordshire County Council, Biddulph Town Council, and Sainsbury's Supermarket and other local businesses on the introduction of a PSPO. In addition, it is proposed that members of the public also be invited to submit any representations by erecting signage in and around the proposed affected area and placing details on the Council's website.

Mark Trillo

Executive Director (People) and Monitoring Officer

Background Papers

Location

Contact details

David Smith x 4165

Appendix A Consultation Document



Staffordshire Moorlands District Council

NOTICE OF INTENTION TO APPLY A PUBLIC SPACES PROTECTION ORDER

Section 59 Anti-Social Behaviour Crime and Policing Act 2014

Notice is hereby given that Staffordshire Moorlands District Council proposes to make a Public Spaces Protection Order under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014.

Anyone who commits an offence under any of the provisions of the proposed Public Spaces Protection Order will be liable on conviction in the Magistrates' Court to a fine of up to £1,000.

Under the terms and restrictions of the proposed Public Spaces Protection Order the following will be prohibited:

- a) Congregating or loitering as part of a group of six or more people
- b) Playing football, other ball games or other sports.
- c) Engaging in, promoting, encouraging or assisting in activities of vehicle racing, 'doughnutting', drifting, wheel spinning or other forms of vehicle nuisance.
- d) Playing loud music such as to cause a nuisance for others. This does not include music associated with any activities organised by, or approved by, Biddulph Town Council or Sainsbury's Supermarket.
- e) Throwing stones, eggs, street furniture or any other items such that it is likely to cause damage and/or nuisance, alarm, or distress to others.
- f) Consuming alcohol or being in the possession of alcohol in an unsealed container.
- g) Behaving in a manner that causes, or is likely to cause, alarm, distress or harassment to others.

Copies of the draft Order are available during normal opening hours at Biddulph Councils Connect, Town Hall, High Street, Biddulph, Stoke-on-Trent, ST8 6AR.

Any representations regarding this proposed Order may be sent to the Council in writing by XXX and addressed to: David Smith, Principal Community Safety Officer, Staffordshire Moorlands District Council, Moorlands House, Stockwell Street, Leek ST13 6HQ or david.smith@staffsmoorlands.gov.uk

Appendix B Draft Public Spaces Protection Order



Staffordshire Moorlands District Council

NOTICE OF INTENTION TO APPLY A PUBLIC SPACES PROTECTION ORDER

Section 59 Anti-Social Behaviour Crime and Policing Act 2014

The Staffordshire Moorlands District Council hereby makes the following Order:

1. This Order comes into force on [notice will be given of date if Order is made] and will last for a period of three years.
2. This Order applies to the land specified in the Schedule.

Purpose

3. The Order is intended is to help to stop or reduce activities that have had a detrimental effect on the quality of life of those in the locality, including noise nuisance, shouting and swearing, climbing onto the roof of the Smithfield centre, playing football, criminal damage, alcohol and substance misuse, vehicle nuisance, abuse and intimidation, and other forms of rowdy and inconsiderate behaviour.

Offence

4. Under the terms and restrictions of the Public Spaces Protection Order the following is prohibited:

- a) Congregating or loitering as part of a group of six or more people.
- b) Playing football, other ball games or other sports.
- c) Engaging in, promoting, encouraging or assisting in activities of vehicle racing, 'doughnutting', drifting, wheel spinning or other forms of vehicle nuisance.
- d) Playing loud music such as to cause a nuisance for others. This does not include music associated with any activities organised by, or approved by, Biddulph Town Council or Sainsbury's Supermarket.
- e) Throwing stones, eggs, street furniture or any other items such that it is likely to cause damage and/or nuisance, alarm, or distress to others.
- f) Consuming alcohol within the area edged in red on the attached map.

Where a constable or an authorised person reasonably believes that a person is or has been consuming alcohol in breach of a prohibition in a public spaces

protection order, or intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition.

The constable or authorised person may require that person—

- (i) not to consume, in breach of the order, alcohol or anything which the constable or authorised person reasonably believes to be alcohol;
- (ii) to surrender anything in their possession which is, or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol.

In this section “authorised person” means a person authorised for the purposes of this section by the local authority that made the public spaces protection order (or authorised by virtue of section 69(1) of the Anti-Social Behaviour, Crime and Policing Act 2014).

- g) Behaving in a manner that causes, or is likely to cause, alarm, distress or harassment to others.

Penalty

5. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

6. If any interested person desires to question the validity of this Order on the grounds that the Council has no power to make it or that any requirement of the Act has not been complied with in relation to this Order, he or she may apply to the High Court within six weeks from the date on which this Order is made.

IN WITNESS whereof the COMMON SEAL
of the STAFFORDSHIRE MOORLANDS
DISTRICT COUNCIL was hereunto affixed this
day of two thousand and sixteen in
the presence of

Chairman

Chief Executive

SCHEDULE

This Order applies to land including, and immediately surrounding, Sainsbury's Supermarket and Millennium Gardens in Biddulph, Staffordshire Moorlands, which for the avoidance of doubt is edged in red on the attached map.