

## STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

### Cabinet Delegated Decisions

26 March 2021

<b>TITLE:</b>	<b>Wildfires PSPO</b>
<b>PORTFOLIO HOLDER:</b>	<b>Councillor Mike Bowen - Portfolio Holder for Communities</b>
<b>CONTACT OFFICER:</b>	<b>David Smith - Principal Officer Communities &amp; Partnerships</b>
<b>WARDS INVOLVED:</b>	<b>All</b>

**Appendices Attached – Appendix A: Draft Order, Appendix B: Response from Peak District National Park Authority, Appendix C: Response from Staffordshire Fire and Rescue Service, Appendix D: Response from Staffordshire Police and the Office of the Police and Crime Commissioner, Appendix E: Response from the National Trust**

#### **1. Reason for the Report**

1.1 To provide a summary of the responses received in relation to the proposals to introduce a Public Spaces Protection Order (wildfires) 2021 and to obtain approval to introduce the Order.

#### **2. Recommendation**

2.1 That the Cabinet Member notes the responses to the consultation.

2.2 That the Cabinet Member approves the draft Order.

#### **3. Executive Summary**

3.1 On 1 December 2020, the Cabinet considered the introduction of a Public Spaces Protection Order (PSPO) to help prevent fires in grass and moorland areas. The draft PSPO had been considered at the Communities Overview & Scrutiny Panel on 23 November 2020.

3.2 After considering the draft Order, the accompanying report and comments from the Communities Overview & Scrutiny Panel, the Cabinet agreed:

- That the conduct of the necessary consultation, publication and notification in relation to the draft Order appended to the report be agreed; and

- That the approval of the draft Order be made by way of a Delegated Cabinet Decision unless the responses from the consultation necessitate material changes to the draft Order.

3.3 The Council has now carried out a consultation on the proposed PSPO and the responses are outlined in this report.

3.3 It is suggested that none of the responses necessitate material changes to the draft Order and that the new Order can now be introduced by way of a Delegated Cabinet Decision.

#### 4. **How this report links to Corporate Priorities**

4.1 The proposed Order would support Aim 1: Supporting our communities to create a healthier, safer, cleaner High Peak.

#### 5. **Alternative Options**

5.1 The Council could chose not to introduce a PSPO in the terms suggested.

#### 6. **Implications**

##### 6.1 Community Safety - (Crime and Disorder Act 1998)

The introduction of the Order would assist in preventing nuisance and environmental crime.

##### 6.2 Workforce

Officers will be deployed to beauty spot areas at key times as part of a multi-agency approach.

##### 6.3 Equality and Diversity/Equality Impact Assessment

None identified.

##### 6.4 Financial Considerations

None, the cost of signage and enforcement of the Orders would be delivered within current budgets.

##### 6.5 Legal

The draft Order has been reviewed by Legal Services.

##### 6.6 Sustainability

None.

## 6.7 Climate Change

The proposed PSPO could assist in preventing carbon loss as a result of wildfires in moorland areas and thus assist in reducing climate change.

## 6.8 Consultation

The draft Order was initially considered by the Communities Overview & Scrutiny Committee on 23 November 2020 with the Cabinet agreeing that the Council should consult on the proposals at their meeting on 1 December 2020.

The responses to the subsequent statutory consultation are provided within this report.

## 6.9 Risk Assessment

None

Mark Trillo

**Executive Director (People) and Monitoring Officer**

### **Web Links and Background Papers**

### **Contact details**

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## 7. Detail

- 7.1 The Anti-Social Behaviour Crime and Policing Act 2014 gives local authorities the power to introduce a Public Spaces Protection Order (PSPO) to control behaviours in a public place, which have caused or may cause a detrimental effect on the quality of life of those in the locality and are likely to be of a continuing or persistent nature and are therefore unreasonable.
- 7.2 The introduction of a Public Spaces Protection Order (PSPO) to help prevent wildfires was considered by the Council in 2018 in response to a planned (but subsequently cancelled) sky lantern festival on the edges of Buxton. This was due to concerns about the risk of lanterns drifting into Staffordshire Moorlands and potentially causing fires at a time of heightened fire risk.
- 7.3 The possibility of introducing a PSPO was raised again by the Peak District National Park Authority and District Councillors in 2020 following large numbers of people visiting the Peak District after the restrictions introduced to prevent the spread of coronavirus were lifted in the summer of 2020.
- 7.4 The Communities Overview & Scrutiny Panel considered a draft PSPO to help prevent fires in grass and moorland areas on 23 November 2020. On 1 December 2020, the Cabinet agreed that the Council should carry out the necessary consultation, publicity and notification that is required by statute before introducing a PSPO (as set out in the Table below).

<b>Requirements under Section 72 Anti-Social Behaviour, Crime and Policing Act 2014</b>	<b>What we must do</b>	<b>What we did</b>
"Necessary Consultation"	Consult with: <ul style="list-style-type: none"> <li>a) the chief officer of police, and the local policing body, for the police area that includes the restricted area</li> <li>b) whatever community representatives the local authority thinks it appropriate to consult; and</li> <li>c) the owner or occupier of land within the restricted area (where reasonably practicable).</li> </ul>	Letters were sent to the Chief Constable of Staffordshire Police; the Police, Fire and Crime Commissioner for Staffordshire; the Chief Fire Officer of Staffordshire Fire and Rescue Service and the Chief Executive of the Peak District National Park Authority on 22 January 2021. Consultees were asked to provide any comments that they have by 19 February 2021.
"Necessary Publicity"	Publish the text of the proposed order.	The text of the proposed order was published on the Council's website and a press release was issued on 22 January 2021.

"Necessary Notification"	Notifying any parish councils and the County Council of the proposed order.	A copy of the proposed Order was sent to all town and parish councils on 27 January 2021.  A copy was also sent to Staffordshire County Council (SCC) on 22 January 2021.
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## Responses Received following the "Necessary Consultation"

### *Peak District National Park Authority*

- 7.5 The PDNPA welcomed working in partnership to reduce the risk of wildfires; however, they questioned whether the introduction of a PSPO is needed. PDNPA pointed to their existing byelaws to prevent fires introduced under the Countryside and Rights of Way (CROW) Act 2000. They also raised the difficulties of enforcing an Order and highlighted their lack of resource to enforce the current byelaws. A copy of the response from PDNPA is provided at Appendix B.
- 7.6 The Peak District National Park byelaws were introduced in 1996 and cover a range of issues such as discharging crossbows, killing wildlife, interfering with water courses and removal of peat or stones. On firesetting, the byelaw states that:
- "No person shall on the access land<sup>1</sup> intentionally, carelessly or negligently light a fire, or place, throw or let fall a lighted match or any other thing so as to be likely to cause a fire".*
- 7.7 Any person offending against any of the byelaws is liable to a fine not exceeding Level 2 on the Standard Scale on summary conviction. It is our understanding that the byelaws have been very rarely enforced.
- 7.8 It is recognised that enforcing the requirements of the Order presents difficulties given the size of the rural area, the remoteness of some parts of it, high visitor numbers, and the relatively low number of officers with enforcement powers. However, It is hoped that the presence of the restriction, suitable signage and education, and targeted patrols with other key agencies at specific times of the year will together assist in reducing moorland fires.
- 7.9 The introduction of a PSPO would allow breaches to be dealt with by way of a fixed penalty notice as an alternative to prosecution. Enforcement of byelaws can only take place by way of court summons.

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<sup>1</sup> The CROW Act normally gives a public right of access to land mapped as 'open country' (mountain, moor, heath and down) or registered common land. These areas are known as 'open access land'.

7.10 Furthermore, the Peak District National Park byelaw only covers access land, whilst the proposed PSPO applies to all parts of the district of Staffordshire Moorlands that:

- lie within the boundary of the Peak District National Park and/or is land owned by Staffordshire Moorlands District Council, and
- are open to the air, and
- to which the public are entitled or permitted to have access (with or without payment).

7.11 The PSPO would, therefore, protect a greater area and it is suggested that members of the public should find it easier to identify when they are within the boundary of the Peak District National Park (which is marked at the road entrances) than when they are on access land (which is arguably less understood). This clarity should assist people to comply with the rules.

7.12 PDNPA suggested that it may be appropriate to include an exemption for landowners/occupiers or people authorised by them carrying out controlled burning on their land, provided the proposed activity is carried out with any other necessary consents and in accordance with the 2007 Regulations and the Heather and Grass Burning Code or any replacements.

7.13 It is recommended that the draft Order be amended to include an exemption for 'managed burning' as suggested by the PDNPA. This would amount to a minor change to the draft Order and would not require further consultation on the change.

#### *Staffordshire Fire and Rescue Service (SFRS)*

7.14 SFRS stated that they were supportive of the proposed PSPO. A copy of their response is provided at Appendix C.

#### *Staffordshire Police and the Office of the Police and Crime Commissioner*

7.15 A response was received from the Police, Fire and Crime Commissioner for Staffordshire stating that he was broadly in support of the proposed Order. However, he suggested that SMDC's proposed Order goes further than comparable orders by seeking to prohibit possessing barbecues, fireworks or lanterns in the Restricted Area. He expressed a concern that "the simple act of possessing an item goes beyond what could be enforceable and possibly infringes on civil liberties disproportionately, so would be difficult to police in practice. This could criminalise those who might have no intention to light an item within the Restricted Area, or even those simply traversing in a vehicle through the Restricted Area".

7.16 A copy of the full response is provided at Appendix D.

## **Responses Received following the “Necessary Publicity” and “Necessary Notification”**

### *Staffordshire County Council*

7.16 SCC did not submit any comments.

### *National Trust (NT)*

7.19 The NT offered broad support for the proposed introduction of the PSPO stating that the PSPO could act to raise awareness but also that it needs to be regarded as part of a broader strategic approach.

7.20 The NT requested that an exemption be included for otherwise lawful land management activities by owners and occupiers of land. They also raised the same point as the PDNPA and asked for clarity as to why the PSPO is required above and beyond current measures under the CRoW Act. A copy of the NT’s response is provided at Appendix E.

### *Residents*

7.23 One resident commented on the problems caused by pop-up campsites and the nuisance that can be caused by campfires. They also asked whether motorcaravan owners would be prevented from using gas stoves within their vehicles (the restriction would not apply since motorcaravans are not open to the air and the public are not entitled to enter). They also asked whether the PSPO would prevent smoking cigarettes in high risk areas or would restrict people from lighting candles in acts of remembrance at cemeteries or other such public places. Such activities would only be caught by the PSPO if they posed a risk of fire, which would not normally be the case if the cigarettes and candles used safely and disposed of appropriately.

7.24 Another resident also raised the issue of campsites and argued that campfires and fire pits should be banned in all locations and that more should be done to ensure compliance with all regulations on licensed campsites. The PSPO is aimed at preventing wildfires and would prevent fires and fire pits in most locations. It is not suggested that the prohibitions be extended to licensed campsite, or to land occupied by exempted organisations such as the Guides or Scouts, because the use of such sites is supervised and the restriction would be unreasonable and generally not necessary to prevent wildfires.