

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Report to Cabinet

1 August 2017

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| 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 Final 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. The District Council has consulted on a proposal to introduce a Public Spaces Protection Order to assist in stopping individuals or groups committing anti-social behaviour in the area.

This report presents the responses from the consultation and proposes that the Council proceeds to make a Public Spaces Protection Order.

2. Recommendation

2.1 That Staffordshire Moorlands District Council introduces a 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 A report was brought before members of the Community and Overview Scrutiny Panel on 13th February 2017 and Cabinet on 14th February 2017, which outlined a proposal to introduce a Public Spaces Protection Order to assist in preventing nuisance behaviour in and around the Millennium Gardens in Biddulph
- 3.3 Following approval from Elected Members, the District Council carried out the necessary consultation, publicity and notification as required under s72 of the Anti-Social Behaviour, Crime and Policing Act 2014.
- 3.4 Responses supporting the introduction of the Public Spaces Protection Order were received from Staffordshire Police, Biddulph Town Council, Office of the Police and Crime Commissioner, and Staffordshire County Council. There were no specific comments on the individual prohibitions contained within the draft Order and no suggestion about including additional prohibitions to those consulted upon.

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 The Millennium Gardens and surrounding area meets the two conditions required for the Council to introduce a Public Spaces Protection Order. The activities that have taken place have had a detrimental effect on the quality of life of those in the area. Secondly, the activities have been of a persistent, on-going nature.
- 5.2 Cabinet may choose to approve the proposed Order attached at Appendix A (Recommended).

- 5.3 Alternatively, Cabinet may choose not to make a Public Spaces Protection Order (not recommended).

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 Equalities Impact Assessment has been completed. There are no implications that would prevent the making of the Public Spaces Protection Order.

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 s68 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 District Council has carried out necessary consultation, publicity and notification as required under s72 of the Anti-Social Behaviour, Crime and Policing Act 2014.

The relevant section of the Act defines “*the necessary consultation*” as consulting with—

- (a) the chief officer of police, and the local policing body, for the police area that includes the restricted area;
- (b) whatever community representatives the local authority thinks it appropriate to consult;
- (c) the owner or occupier of land within the restricted area;

In response, the Council consulted with Staffordshire Police and the Office of the Police and Crime Commissioner for Staffordshire, Sainsbury’s supermarket and businesses/residents in the area.

“*The necessary publicity*”, in the case of a proposed order, means publishing the text of it.

In response, the Council published a copy of the proposed order on its website and also by posting laminated copies of the proposal within the restricted area.

“*The necessary notification*” means notifying the following authorities of the proposed order, extension, variation or discharge—

- (a) the parish council or community council (if any) for the area that includes the restricted area;
- (b) in the case of a public spaces protection order made or to be made by a district council in England, the county council (if any) for the area that includes the restricted area.

In response, the Council sent details of the proposed Order to both Biddulph Town Council and Staffordshire County Council.

6.8 Risk Assessment

No specific risks.

7. **Background and Detail**

- 7.1 A report was brought before members of the Community and Overview Scrutiny Panel on 13th February 2017 and Cabinet on 14th February 2017, which outlined a proposal to introduce a Public Spaces Protection Order to assist in preventing nuisance behaviour in and around Biddulph Millennium Gardens.

- 7.2 The report outlined the activities that have taken place in and around the Millennium Gardens and which have had a continuing detrimental effect on the quality of life of those in the area.
- 7.3 Authorisation was sought and granted to carry out consultation, publicity and notification on its proposal to make an order (which is required by s72 of the Anti-Social Behaviour, Crime and Policing Act 2014). The Council, therefore, wrote to the following to notify them of its proposal and obtain their views:
- Local shop keepers and residents (written details of the proposed Order were hand delivered by Staffordshire Police on behalf of the District Council);
 - Staffordshire Police;
 - Staffordshire's Police and Crime Commissioner;
 - Staffordshire County Council;
 - Biddulph Town Council;
 - The manager of Sainsburys Supermarket, Biddulph.
- 7.4 Details of the proposed Order and how to respond were published on the Council's website and copies were placed on lampposts around the area to be covered by the Order.
- 7.5 The Biddulph Chronicle also published an article on the proposed Order.
- 7.5 Responses were received from Staffordshire Police, Biddulph Town Council, Office of the Police and Crime Commissioner, and Staffordshire County Council. These responses indicated support for the introduction of the Public Spaces Protection Order.
- 7.6 There were no specific comments on the individual prohibitions contained within the draft order and no suggestion about including additional prohibitions to those consulted upon.
- 7.7 The Council did not receive any comments opposing the introduction of the Order.

Mark Trillo

Executive Director (People) and Monitoring Officer

Background Papers

Location

Democratic & Communities
Dept
Moorlands House, Leek

Contact details

David Smith
Principal Officer Communities and
Partnerships
david.smith@staffsmoorlands.gov.uk
Ext 4165

Appendix A Final 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 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, 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. In respect of activity f above, namely consuming, or intending to consume, alcohol within a prohibited area in breach of the Order, it is an offence if a person fails, without any reasonable excuse, to comply with an authorised person’s request as set out in f (i) and f (ii) above. An authorised person who imposes a requirement under f (i) or f (ii) must tell the person that failing without reasonable excuse to comply with the requirement is an offence. In the event of such a failure, a person will commit a criminal offence for which the maximum penalty upon summary conviction is a fine not exceeding level 2 on the standard scale.

Challenging the Validity of the Order

7. 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 seventeen 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.