

Report to	-	Cabinet
Date	-	9 April 2018
Report of the	-	Executive Director of Business Operations
Subject	-	Public Spaces Protection Orders - Anti-Social Behaviour

Recommendation: It be **RESOLVED:** That the Executive Director be authorised to undertake the final consultation with the East Sussex County Council, Police and Crime Commissioner and Chief Officer of Police and if there are no adverse comments to proceed to make a Public Spaces Protection Order (Anti-social Behaviour) in designated areas for three years.

Service Manager: Richard Parker-Harding
Lead Cabinet Member: Councillor Mrs Kirby-Green

Introduction

1. Public Spaces Protection Orders (PSPO) can be used to control anti-social behaviour in a particular area. Such as alcohol bans, bans on the playing of amplified music, busking, swearing etc. They generally replicate existing laws and bye-laws but have the advantage they can be enforced by fixed penalty notices (FPN) rather than prosecutions in a Court.
2. Cabinet Minute CB17/30 authorised Officers to consult the public about making a PSPO to respond to certain anti-social behaviour, namely:

Nuisance Begging

No person shall carry out persistent begging or loiter in a position to beg or solicit money in the vicinity of any cash machine or shop entrance. For these purposes loitering means “standing or waiting around without apparent purpose”.

Sleeping in vehicles etc.

No person shall occupy for the purposes of sleeping or residing in stationary vehicles on the highway and any public open spaces (where the public can access without payment) between 23:00 and 07:00.

Drinking alcohol in a public place, after been told not to

No person shall consume alcohol or have an open alcohol container in any public place after having being requested by an Authorised Officer or Police Constable to cease consumption or hand over the container. This provision does not apply to alcohol being consumed on licensed premises or on pavements owned by the business or occupied under licence from East Sussex Highway Authority or on land which has the benefit of a Temporary Event Notice (Licensing Act 2003).

Dangerous cycling etc.

No person shall cycle, skateboard or use any vehicle (whether mechanically propelled or not) on the Bexhill promenade (adjacent to West Parade, Marina and De La Warr Parade) and on any pavement in a reckless or wanton manner, including travelling at excessive speed, or travelling without paying due care and attention to others or conditions pertaining at the time.

Fly-tipping by residents or businesses on the streets

No person shall deposit household waste originating from any premises, or any industrial or commercial waste, in or beside a litter bin.

Fossils

No person shall remove or attempt to remove fossils from the beach or foreshore.

Background

3. PSPOs were introduced by the Anti-social Behaviour, Crime and Disorder Act 2014 (the Act). PSPOs are intended to deal with a nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can enjoy public spaces, safe from anti-social behaviour.
4. A PSPO can be made by the Council if they are satisfied on reasonable grounds that the activity/activities carried out, or are 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.
5. The restrictions specified in a PSPO can be set by the Council; these can be blanket restrictions or can be targeted against certain behaviours by certain groups at certain times. They can restrict access to public rights of way where that route is being used to carry out anti-social behaviour.
6. Short-term PSPOs could be used where it is not certain that restrictions will have the desired effect, for instance, when closing a public right of way. The Executive Directors have delegated authority to make or amend PSPOs for three months (Minute CB14/32 refers). At any point before expiry, the Council can extend a PSPO by up to three years if they consider that it is necessary to prevent the original behaviour from occurring or recurring.
7. The breach of a PSPO is a criminal offence; enforcement officers can issue a fixed penalty notice of up to £100 if appropriate, but a fine of up to £1,000 can be made on prosecution.
8. More than one restriction can be added to the same PSPO, meaning that a single PSPO can deal with a larger range of behaviours.

Consultation responses

9. 458 responses were received over nine weeks (until 12 January 2018) which have taken sometime to collate. The complete report on the consultation was placed in the Members' Room. A summary of the responses and comments is produced in Appendix A. Information from the Police is set out in Appendix B.

Officer recommendations

10. Taking into account the consultation responses, previous Member concerns, past public complaints to the Council and the Police and the need to prevent future problems, officers make the following recommendations.

a) Nuisance Begging: No person shall carry out persistent begging or loiter in a position to beg or solicit money in the vicinity of any cash machine or shop entrance. For these purposes loitering means "standing or waiting around without apparent purpose".

There is public support for this control, although understandable concerns for the homeless. It should be emphasised that this proposal does not seek to prohibit the public giving money to rough sleepers or begging, just nuisance begging. It is proposed that this control should initially apply to Bexhill and Rye only. It could be extended to other towns if the need arises and the imposition in Bexhill proves to be useful. Executive Directors have delegated authority to amend the control to other areas for three months.

b) Sleeping in vehicles: No person shall occupy for the purposes of sleeping or residing in stationary vehicles on the highway and any public open spaces (where the public can access without payment) between 23:00 and 07:00.

This has generated opposition from non-residents who believe it is their right to live in their camper van when visiting the district and state they do not cause a nuisance. Residents who are negatively impacted by people living in vehicles near their homes believe it is affecting their quality of life. People living in vehicles use local services, but do not pay for them by paying Council Tax. Commercial caravan sites exist for people who wish to holiday in Rother.

It is effectively illegal for persons to live in vehicles by virtue of section 77 of the Crime and Public Order Act 1994. This problem may be resolved if civil parking enforcement is introduced. It is proposed that this control is applied across the district.

c) Drinking alcohol in a public place, after been told not to: No person shall consume alcohol or have an open alcohol container in any public place after having being requested by an Authorised Officer or Police Constable to cease consumption or hand over the container. This provision does not apply to alcohol being consumed on licensed premises or on pavements owned by the business or occupied under licence from East Sussex Highway Authority or on land which has the benefit of a Temporary Event Notice (Licensing Act 2003).

This control is widely supported by the public and is necessary to control street drinkers, creating a nuisance or fear of crime. Officers will clearly have

discretion in this matter, as to whom they tell to stop drinking. It is proposed that this control should initially apply to Bexhill only. It could be extended to other towns if the need arises and the imposition in Bexhill proves to be useful. Executive Directors have delegated authority to amend the control to other areas for three months.

d) Dangerous cycling etc: No person shall cycle, skateboard or use any vehicle (whether mechanically propelled or not) on the Bexhill promenade (adjacent to West Parade, Marina and De La Warr Parade) and on any pavement in a reckless or wanton manner, including travelling at excessive speed, or travelling without paying due care and attention to others or conditions pertaining at the time.

This control is widely supported by the public and is necessary to control reckless cycling and other vehicles. It is proposed that this control should apply to Bexhill, High Street Battle and Main Road, Westfield only. It could be extended to other villages and towns if the need arises and the imposition in Bexhill, Battle and Westfield proves to be useful. Executive Directors have delegated authority to amend the control to other areas for three months.

Etchingham Parish Council's concerns about vehicles driving on the pavement have been referred to East Sussex County Council (ESCC), as the Highway Authority.

e) Fly-tipping by residents or businesses on the streets: No person shall deposit household waste originating from any premises, or any industrial or commercial waste, in or beside a litter bin.

This control is widely supported by the public and would be a useful tool to stop waste being dumped on high streets next to litter bins. It is proposed that this control should apply to Bexhill, High Street Battle and Etchingham, Church Lane and Main Street Westfield only. It could be extended to other villages and towns if the need arises and the imposition in Bexhill proves to be useful. Executive Directors have delegated authority to amend the control to other areas for three months.

f) Fossils: This control has been interpreted as an attempt by this Council to ban fossil hunting on its beaches and foreshore. This is not the intention and it is intended that any Order would be used judiciously to prevent irresponsible or commercial collecting. In May 2017 the Fossil Code of Conduct was approved by Council. It is therefore proposed that the wording be: "No person shall remove or attempt to remove fossils from the beach or foreshore except loose fossils."

Necessary Consultation

11. Section 72(4) of the Act requires consultation with the chief officer of police for Rother, the Police and Crime Commissioner and ESCC as the Highway Authority. Consultation has already taken place with the public and Town and Parish Councils.

Informing the Public

12. If a PSPO is made then it is envisaged that some information signage will be put up, as appropriate and necessary, for example signage referring to reckless cycling and drinking alcohol in the street. The PSPO will also be made available on the Council's website.

Enforcement

13. PSPOs can be enforced by council officers and police constables, who can exercise discretion before issuing a FPN. The Council has limited resources to carry out enforcement, with only one part-time Community Warden and other officers, who are authorised, as part of carrying out their primary roles e.g. Coastal Control Officers. Any enforcement will therefore have to be targeted.

Conclusion

14. Extensive consultation has taken place and the results indicate support for introducing a PSPO to control some aspects of anti-social behaviour in designated areas. A PSPO must be reviewed every three years. In the meantime, if the controls prove to be successful in the designated areas then they can be extended to other areas, if the need arises. Executive Directors have delegated authority to amend the control to other areas for three months.

Dr Anthony Leonard
Executive Director of Business Operations

Risk Assessment Statement

Failure by the Council to have an adequate PSPO may result in an inability of the Council or the police to respond to anti-social behaviour.

The table below summarises the responses.

Control In order of popularity	Percentage of persons who had seen this as a problem more than once in the last year	Net positive score - those who thought the control would help subtracted from those who did not think the control would help	Comments
Drinking alcohol in a public place, after been told not to	36	52	Warnings should be given before a FPN issued.
Dangerous cycling etc.	33	39	Rother wide application supported. Should include disability scooters.
Fly-tipping by residents or businesses on the streets	51	38	
Nuisance Begging	29	9	Concerns for the homeless and whether fines would assist.
Sleeping in vehicles etc.	25	9	Comments received from non-residents who did camp in vehicles in Bexhill overnight and believed they were not causing a nuisance and supporting the local economy. Conversely residents felt very strongly that it was a nuisance and unfair to local taxpayers to use their road as a campsite, especially those staying long term.
Removal of fossils	Question not asked	-6	Many non-residents objected to this control.

RESPONSES RECEIVED FROM PARISH AND TOWN COUNCILS

Battle Town Council: The PSPO was discussed at the Council meeting of Battle Town Council and I have recorded the meeting discussion below. Members reported being affected by fly tipping in their wards. Members hoped that any issues would be resolved quicker if a PSPO was enforceable. The Council would like to see an extension to the dangerous cycling to be expanded to include Battle in any future plans.

Camber Parish Council considered the PSPO at their December meeting and is in support of the proposals set out in your consultation documents. Camber Parish Council would like to suggest that the enforcement officer employed to ensure that the anti-social behaviour (ASB) is dealt with also is given responsibility and powers as dog warden within the parish of Camber as this type of ASB is an ongoing problem and is of particular concern during the summer months when there are a large number of visiting families with children who may be affected.

Etchingam Parish Council: Following the Parish Council meeting on 19 October 2017 it was resolved by a majority of the Councillors present that I should respond to your consultation on a PSPO, as it was strongly believed that two of the controls proposed would be justified and indeed very helpful to this council.

Dangerous cycling etc: an on-going issue on the High Street as swiftly moving vehicles, cars, vans and lorries mount the pavement and continue to drive as if on the road to avoid waiting while on-coming traffic is on the wrong side of the road to get around parked vehicles. There is documented evidence of this taking place and some frightening first hand experiences logged of this increasingly dangerous behaviour. Barring a fatality there seems little can be done currently.

Fly-tipping by residents or businesses on the streets: an on-going issue by one bin in particular. Fly-tipping in the country lanes of the village is another matter, but again any additional pressure that can be brought to bear in increasing penalties to a significant level would most certainly be welcomed. RDC actually has a pretty good reputation for dealing with 'dumped' rubbish in the genuinely rural areas - it is appreciated.

Fairlight Parish Council considered your e-mail regarding the proposed PSPOs at their last meeting. Although Councillors did not feel that any of the issues listed currently affect residents in Fairlight, they would welcome any additional powers that RDC and the police would have in tackling anti-social behaviour

Icklesham Parish Council: Thank you for inviting us to comment on the proposals. Icklesham Parish Council did not think that all of the controls would be useful in the parish, but we would like to see the fly tipping one expanded to include all aspects of fly tipping and fly posting (not just beside a bin). The Council welcomes these measures and feels that post implementation, enforcement of them would be key.

Peasmarsh Parish Council: The only areas where controls are justified in Peasmarsh are in respect of dangerous cycling etc. and fly tipping.

Rye Town Council: Support all six controls.

Westfield Parish Council: Councillors agreed that all of the controls, except removal of fossils should be applied in Westfield. However at present the only areas that we have issue with in Westfield are as follows:

Sleeping in vehicles; a van is regularly parked in the centre of the village for two or three nights at a time and a man is believed to be sleeping in the van.

Dangerous cycling; a few children regularly ride dangerously in the village, swerving in front of vehicles, not wearing helmets, and not using lights etc.

Fly tipping, not very often, but this is occasionally a problem.

Whatlington Parish Council: Councillors agreed with all six proposals, but would like to have emphasis that no commercial vehicles to be parked up or slept in overnight.

Other Comments received

1066 Cycle Club promotes responsible, considerate and safe cycling.

We are keen to see the construction of purpose built cycle tracks and the establishment of segregated cycle tracks wherever possible. Where such segregated routes are not possible we welcome the designation of shared use pathways such as the Bexhill seafront promenade.

Considerate use of such shared pathways by all users is required. We support the proposed PSPO which seeks to prevent cycling in a reckless or wanton manner, including travelling at excessive speed or without paying due care and attention to others.

The definition of excessive speed and what constitutes reckless or wanton cycling will vary, dependent on the number of other users of the promenade and the conditions pertaining at that time. Proper training of enforcement officers should be undertaken in order to ensure that they are able to make reasonable and consistent judgements in a range of conditions.

Bexhill Wheelers and the Classic Cycling Group

- There was general agreement at our November 2017 monthly meeting to the six proposals. The main concern raised was how they were to be effectively enforced.
- Bexhill Wheelers and the Classic Cycle group, who have always promoted responsible, considerate and safe cycling, agreed that there are 'rogue cyclists & users' everywhere who need to be warned to 'Share with Care'.
- Cycle bells or other alarms are used, as necessary to warn, not alarm pedestrians. Adequate space should be allowed when passing pedestrians. Most Bexhill Wheelers members wear crash protection helmets and yellow safety jackets.
- Speed – 10 mph or much less is considered reasonable for all cyclists, skateboarders & electric vehicles, when passing, especially when the promenade is busy. The road is always an option. We try as a club to cycle along the promenade in single file at a slow pace.
- The promenade is a great asset for visitors to Bexhill and should be enjoyed by all. The 'Penny Farthings', Classic Cycles and the 'Coastal Culture Trail' to Hastings & Eastbourne are attractions that we should all help develop.
- The real solution is a purpose built cycle track along the seafront, as seen in many other UK resorts and throughout Europe. We have many photos to demonstrate this. Copies available. This improvement would be expensive, but have health & safety benefits and considerably reduce NHS costs.

- No serious safety incidents have been reported. Complaints about general seafront use, plants, toilets, dogs etc. are inevitable.
- The promenade is frequently empty and trouble free, but there are vehicle incidents around Bexhill, quite often.
- Clear track markings & notices should be in place to indicate that the promenade is a shared space.
- Children – Many of us train children & groups to ride safely and the promenade is ideal for this. We support 'Sustrans' who are a UK sustainable transport charity. Its flagship project is the National Cycle Network. We are to be part of this route; it attracts UK and overseas visitors.
- Insurance – Most of us drive cars as well, so do pay road tax. Also the Bexhill Wheelers club and individuals are insured for third Parties through the CTC, now called Cycling UK. The Bexhill Wheelers Club uses the promenade twice a week to meet & cycle elsewhere. Other cycling clubs come to Bexhill to enjoy the ride.
- Vehicle parking on junctions and double yellow lines in Bexhill make it dangerous to cycle or drive around the town in safety.
- The Government are constantly promoting healthy exercise for all of us, there are grants to help local schemes, as you will be aware.
- We often attend various public meetings to offer advice and opinions on cycling & would be pleased to attend any RDC meetings as required.

Sussex Strategic Business Board

From the business perspective, traders/retailers would be in full support of PSPOs being introduced and adopted within the district on the basis that it would support and encourage the increase of constituents and non-residents to the retail areas, helping to improve footfall and potentially improving customer sales for businesses.

Retail areas need to be cosmetically pleasing for visitors and residents, market research via social media has identified that shoppers are often discouraged from visiting retail areas if those areas are notoriously known for vandalism, street rubbish, graffiti and other forms of anti-social behaviour for example members of the general public being approached by strangers requesting money, swearing, fighting, street drinking etc.

It is the opinion of many traders that shoppers need to enjoy their shopping experience as with the current economic climate, based on restrictions on finances and time due to employment and other factors including childcare etc., shopping can be stressful and needs to be done within a specified time, without the addition of extra stress creating factors being forcibly introduced when not required.

As a result, businesses would be supportive of the introduction of any measures that would assist with the decrease of anti-social behaviour for the said area.

East Sussex Library Service

As with many public services we manage a low level of incidents. These are largely minor and our staff are trained to handle these in an appropriate manner. We aim to provide a welcoming service to anyone that wishes to use the Library and Information Service in a respectful manner. Where incidents are more serious we apply an exclusion policy under our library byelaws or work with the police if appropriate. We have not had incidents of this nature at Rye Library.

Bexhill Tennis Club

Parking of vehicles in Brockley Road; this causes disruption of parking for people visiting Egerton Park. Additionally, visibility to traffic is obscured by these large vehicles. People sleep in them overnight. Rubbish generated is sometimes brought into the park and the nearest bin is filled early in the morning.

Bike riding at speed often occurs in the park and no consideration taken of pedestrians walking. Bye laws are displayed at the entrance of the park cover riding of bicycles and additionally, dog fouling. These are not being observed currently.

The arrangements to cover existing rules, such as no games other than tennis on courts, are not being observed plus the above points.

Currently there appears to be no visible enforcement of existing bye laws, so what is going to change if the new PSPO is enacted?

Unless you have a visible presence and someone with the authority to enforce these measures, the new Order will simply be another warning hung on the gate of the park plus, when some teenagers are challenged they can become quite abusive to older park facility users. Current legislation makes it very difficult for ordinary members of the public to address these matters, so they have to be so very careful trying to reason with youths who are acting irresponsibly.

We would welcome the implementation of the new Order, but in our opinion the enforcement appears to be an area which requires serious consideration.

Information from Sussex Police

ASB data for the whole of Rother over the last year was 1,620 incidents, 908 Bexhill, 378 in Battle and 334 in Rye.

The majority of ASB has been reported in Bexhill, interestingly overall levels of reported ASB incidents in Bexhill and Rye between 2016/2017 have decreased, but increased across Battle.

ER1-Bexhill	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Total
	71	70	85	78	96	76	82	105	80	79	70	99	991
	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	
	87	70	70	75	88	87	113	90	59	66	56	47	908
ER2-Battle	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	
	24	21	22	38	30	33	35	35	22	23	28	24	335
	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	
	15	25	27	32	42	32	46	50	38	34	24	13	378
ER3-Rye	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	
	24	29	37	32	32	41	30	46	25	22	17	15	350
	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	
	26	20	37	31	34	30	33	29	30	21	27	16	334