

**Report of the Assistant Director Place to the meeting of  
Regulatory and Appeals Committee to be held on the 11<sup>th</sup> March  
2021**

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**Subject:**

**Proposed Public Space Protection Order for Bradford District relating to  
antisocial behaviour at Ilkley Riverside Parks.**

**Summary statement:**

**This report outlines the proposals and seeks approval to begin the required  
six week public consultation exercise to consider the implementation of a  
Public Space Protection Order for Bradford District relating to antisocial  
behaviour at Ilkley Riverside Parks.**

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**Overview & Scrutiny Area:**  
**Corporate**

## 1. SUMMARY

- This report outlines proposals and seeks approval to begin the required public consultation exercise to consider the implementation a Public Space Protection Order ('PSPO') for Bradford District relating to antisocial behaviour at Ilkley Riverside Parks.

## 2. BACKGROUND

- In March 2014 the Government enacted new powers contained in the Anti-Social Behaviour, Crime and Policing Act 2014 (later referred to as 'the Act') relating to tackling anti-social behaviour including the making by local authorities of PSPOs which can prohibit certain types of antisocial behaviour and make breaches of such subject to fixed penalties and prosecution before the magistrates court subject to a fine not exceeding level 2 or level 3 on the Criminal Courts standard scales of fines.
- The majority of the Act including these powers came into force in October 2014. Where a PSPO makes arrangements to deal with matters already enforceable under existing local legislation it makes/made provision for the:-
  - (i) the temporary suspension of the Councils existing byelaws where prohibitions in the byelaws are covered in a PSPO:
- The making of a PSPO will improve enforcement powers. Fixed penalties and fines for breaches of a PSPO under the Act stand at a maximum of £100 and level 2 (section 63 breaches relating to alcohol - £2000.00 ) and Level 3 (section 67 general breaches £2500) accordingly.
- The power to create a Public Space Protection Order (PSPO) could specify an area where activities are taking place that are or may likely be detrimental to the local community's quality of life. A PSPO can impose prohibitions and or requirements on people using that area.
- Following escalating anti-social behaviour over a number of years, Bradford Council would like to consider a PSPO for the Ilkley riverside area. Prohibitions would relate to offensive behaviours that causes alarm, harassment or distress.
- The Proposed order and boundary plan of the restricted area are at appendices A and B respectively.
- Evidence from the police and the Friends of Riverside Parks and other sources supporting the making of an order is at appendices C, D and E.
- Ilkley riverside attracts many visitors, especially during periods of warm weather. A minority of visitors have engaged in behaviours that and sometimes threaten and intimidate other visitors. This includes: abuse of alcohol and/or drugs, excessive noise, using foul or abusive language, threatening behaviour or violence and littering.
- Jumping off the footbridge has become a common occurrence, especially in periods of hot weather. The shallow water around the bridge puts those who do jump off at risk of injury.

- This has caused Bradford Council to have to close the footbridge, on occasions, causing significant inconvenience to both local residents and visitors, as well as a drain on Police and Council resources to enforce the closure
- Other Local Authorities have experienced positive outcomes using ASB legislation in this way to tackle this type of behaviour. The proposal provides joint partnership enforcement powers which strengthen operational options to tackle nuisance/ASB in this vicinity.

### 3. OTHER CONSIDERATIONS

3.1 Local Authorities have the power to make PSPO 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 those 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 Justifies the restrictions imposed by the notice. Activities can include things that a person or a group does, have done or should do in order to reduce the detrimental effect).

3.2 Public Space Protection Order is an order that identifies the space to which it applies and can make requirements, or prohibitions within the area. This means that the local authority can, require people to do specific things in a particular area or not to do specific things in a particular area. The local authority can grant the prohibitions/requirements where it believes that they are reasonable in order to prevent or reduce the detrimental impact. The order can be made so as to apply to specific people within an area, or to everybody within that area. It can also apply at all times, or within specified times and equally to all circumstances, or specific circumstances. The order can apply for a maximum of three years upon which the process of reviews and consultation must be repeated to ensure the issues is still occurring and the order is having the required effect. Thereafter it can be extended for a further three years and, upon the reviews and consultation taking place, can be extended more than once for further periods of three years.

3.3 The Act is not overly prescriptive about the necessary process required for application of these powers. It has, therefore, been necessary to design a process that is considered to be appropriate and legally robust.

3.4 The recommendation following the consultation period is to make a PSPO (subject to final committee and approval by the City Solicitor given the responses to the consultation. In general the terms of the order are as set out below (see proposed draft order at Appendix A).

1. The effect of this Order is to prohibit the following activities in public spaces within the restricted area, as follows:

Person(s) within the restricted area are prohibited from:

- a) Behaving in a way, including by congregating in a group, that causes or is likely to cause harassment, alarm or distress to an individual or concern for the safety of another person
- b) Threatening, abusing or intimidating other people within the restricted area
- c) Using foul or abusive language
- d) Alcohol abuse and/or drunken behaviour
- e) Refusal to stop drinking alcohol or hand over any containers (sealed or unsealed) which are believed to contain alcohol, when required, to do so by an authorised officer in order to prevent public nuisance or disorder
  
- f) Being under the influence of controlled drugs or other psychoactive substance;
- g) Causing an obstruction or jumping from the footbridge over the River Wharfe connecting Ilkley with Denton Road and Middleton Woods.
- h) Lighting or being in control of a fire or barbecue;
- i) Littering - not to throw down, drop or otherwise deposit and then leave, litter in any place.
- j) Camping overnight in tents, caravans or camper vans. No sleeping out of doors over night

2. Section 63 (consumption of alcohol) A person who fails without reasonable excuse to comply with a requirement imposed on him or her under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale or may be issued with a fixed penalty notice requiring payment of a sum not exceeding £100..
  
3. Section 67 (general breaches) Any person who fails without reasonable excuse to comply with a requirement imposed on him by an Order or does anything that he is prohibited from doing by this Order commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale or may be issued with a fixed penalty notice requiring payment of a sum not exceeding £100.

3.5 Evidence is available to support the need for the introduction of a PSPO in the identified area. Evidence presented at Appendix C, D and E was gathered from:

- Friends of Ilkley Riverside Parks
- West Yorkshire Police
- Evidence from several sources accumulated by Bradford MDC

3.6 The PSPO should apply for a maximum of three years from its date of enactment, after which, if deemed necessary, a further consultation and Order can be progressed.

#### **4. FINANCIAL & RESOURCE APPRAISAL**

The costs of consultation on the implementation of the PSPO will be met from within existing revenue resources.

To patrol the PSPO effectively will require extra staffing in periods of hot weather, including weekends. This extra capacity will be largely met within existing resources of the Council's Neighbourhood Service.

## 5. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no risk management or governance issues apparent. That this has been considered and is an approved approach of the Bradford District Safer Communities Partnership.

## 6. LEGAL APPRAISAL

The Act contains the provisions for the making of a PSPO.

Under section 59 of the Anti Social Behaviour Crime Policing Act 2014 local authorities have the power to make PSPO if satisfied on reasonable grounds that two conditions are met?

- (i) 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 those they will have such an effect.
  
- (ii) The second condition is that the effect, or likely effect, of the activities;
  - is, or is likely to be, of a persistent or continuing nature,
  - a) or is likely to be, such as to make the activities unreasonable, and
  - b) justifies the restrictions imposed by the notice.

Activities can include things that a person or a group does, have done or should do (in order to reduce the detrimental effect). As with any new legislation of its type, this is untested ground and the legislation will be further defined in years to come by a process of appeals and High Court rulings. Any legal challenge presents a risk to the Authority. The legislation supporting implementation of the new Orders states that "interested persons" may challenge the validity of any order in the High Courts. This means that the Council could face a challenge against its ability to implement the Order. An application of this nature must be made within six weeks; beginning on the day the Order is made or varied. There are three grounds upon which a challenge could be made, these are:

- (i) That the local authority did not have the power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied)
- (ii) That a requirement under this element of the legislation not complied with in relation to the order or variation.
- (iii) The High Court would have the power to quash, amend or uphold the order.

Section 63 states **Consumption of alcohol in breach of prohibition in order**

- (1) This section applies where a constable or an authorised person reasonably believes that a person
  - (a) is or has been consuming alcohol in breach of a prohibition in a public spaces protection order, or

(b) intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition. 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)).

(2) The constable or authorised person may require persons

(a) not to consume, in breach of the order, alcohol or anything which the constable or authorised person reasonably believes to be alcohol;

(b) to surrender anything in P’s possession which is, or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol.

(3) A constable or an authorised person who imposes a requirement under subsection (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.

(4) A requirement imposed by an authorised person under subsection (2) is not valid if the person—(a) is asked by P to show evidence of his or her authorisation, and (b) fails to do so.

(5) A constable or an authorised person may dispose of anything surrendered under subsection (2)(b) in whatever way he or she thinks appropriate.

(6) A person who fails without reasonable excuse to comply with a requirement imposed on him

or her under subsection (2) commits an offence and is liable on summary conviction to a fine not

exceeding level 2 on the standard scale.

Section 67 creates a second offence of failing to comply with the order

(1) It is an offence for a person without reasonable excuse—

(a) To do anything that the person is prohibited from doing by a public space protection order, or

(b) To fail to comply with a requirement to which the person is subject under a public spaces protection order.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order.

The penalty for breaches of a PSPO relate to fixed penalty notices and fines alone, which may lead to significant levels of non-payment.

In order to implement a PSPO the procedure under section 72 of the Act must be followed. Section 72 states

### **Convention rights, consultation, publicity and notification**

(1) A local authority, in deciding—

(a) whether to make a public spaces protection order (under section 59) and if so what it should include,

(b) whether to extend the period for which a public spaces protection order has effect (under section 60) and if so for how long,

(c) whether to vary a public spaces protection order (under section 61) and if so how, or

(d) whether to discharge a public spaces protection order (under section 61), must have particular regard to the rights of freedom of expression and freedom of assembly set out

In articles 10 and 11 of the Convention.

(2) In subsection (1) “Convention” has the meaning given by section 21(1) of the Human Rights Act 1998.

(3) A local authority must carry out the necessary consultation and the necessary publicity, and the

necessary notification (if any), before—

(a) making a public spaces protection order,

(b) extending the period for which a public spaces protection order has effect, or

(c) Varying or discharging a public spaces protection order.

(4) In subsection (3)—

“the necessary consultation” means 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;

“the necessary publicity” means—

(a) in the case of a proposed order or variation, publishing the text of it;

(b) in the case of a proposed extension or discharge, publicising the proposal;

“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.

(5) The requirement to consult with the owner or occupier of land within the restricted area—

(a) does not apply to land that is owned and occupied by the local authority;

(b) Applies only if, or to the extent that, it is reasonably practicable to consult the owner or occupier of the land.

(6) In the case of a person or body designated under section 71, the necessary consultation also includes consultation with the local authority which (ignoring subsection (2) of that section) is the authority for the area that includes the restricted area.

(7) In relation to a variation of a public spaces protection order that would increase the restricted area, the restricted area for the purposes of this section is the increased area.

Guidance relating to publication of PSPO’s is set out in the Anti-Social Behaviour Crime and Policing Act 2014 (Publication of PSPO’s) Regulations 2014. There is also the July 2014 Home office guidance which will assist in the legal formalities in creating an order.

In any event a PSPO last for 3 years only and requires review every three years which is an expensive and time consuming process. Such a review and consultation process will in any event be required every 3 years to keep an existing PSPO in force.

The local authority must consult with the following groups to before seeking to make a PSPO.

- Chief Officer of Police for the local area
- Police and Crime Commissioner

- Land Owners in the area
- Any Community Representatives the local authority feels appropriate.
- Member of Parliament

The 2014 Act requires that landowners within the area are consulted; due to the vast population of Bradford it makes direct individual contact unviable. A press publicity campaign would be launched to invite responses, involving local newspapers and radios.

In relation to enforcement of these orders there are two fundamental differences to those under the Designated Public Place Orders (now PSPO's), these are:

- Police Community Support Officers can enforce
- Council Officers can enforce.

## **7. OTHER IMPLICATIONS**

None

### **7.1 EQUALITY & DIVERSITY**

Generally it is understood anti-social behaviour has a disproportionate affect on those most vulnerable in our communities.

### **7.2 SUSTAINABILITY IMPLICATIONS**

There are no sustainability implications apparent.

### **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

There are no greenhouse gas emissions impacts apparent.

### **7.4 COMMUNITY SAFETY IMPLICATIONS**

Anti-social behaviour can have an adverse impact on the district. Any actions the authority can take to improve community safety and consequently the reputation of the District will be of benefit to resident, visitors and businesses. Again this has been considered and approved by the Safer Communities Partnership

### **7.5 HUMAN RIGHTS ACT**

The Act requires that consideration is given to both Human Rights and Rights to Assembly. As a part of the report to the Committee a full assessment will be completed. The consultation with the public will address the Human Rights Act 1998 implications.

### **7.6 TRADE UNION**

There are no trade union implications apparent

## **7.7 WARD IMPLICATIONS**

This order is specific to Ilkley Ward. The intention is to deter those who would cause anti-social behaviour from visiting the area in the first place.

## **7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS**

If obtained the PSPO will fall within the Keighley Constituency.

## **7.9 IMPLICATIONS FOR CORPORATE PARENTING**

## **7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT**

## **8. NOT FOR PUBLICATION DOCUMENTS**

There are no items that are not for publication

## **9. OPTIONS**

- (a) To consult on the draft PSPO and implement an order.
- (b) Take no further action and rely on existing powers of the Council and the police relating to issues of anti-social behaviour.

## **10. RECOMMENDATIONS**

- (a) That the Strategic Director, Place be authorised to undertake the required (minimum 6 week) consultation exercise to implement a Public Space Protection Order for the designated area within Ilkley Ward
- (b) That further to the completion of the necessary consultation process, the proposed Order be submitted to this Committee for approval or, alternatively
- (c) That further to the completion of the necessary consultation process, the proposed Order be approved under delegated powers by the Strategic Director, Place in consultation with the chair of this committee.

## **11. APPENDICES**

- (A) Proposed public space protection order.
- (B) Plan of proposed restricted area.
- (C) Evidence in support.
- (D) Evidence in support
- (E) Evidence in support

## **12. BACKGROUND DOCUMENTS**

None