

Report to: **Cabinet**



Date of Meeting 12 May 2021

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Exemption applied: None

Review date for release N/A

Consideration of Public consultation by Cabinet to enable variance of the Exmouth ASB Public Spaces Protection Order 2020 – 2023

Report summary:

To seek approval to vary the existing Public Spaces Protection Orders (PSPO) for the control of ASB & consumption of Intoxicating substances in Exmouth, as required by the Anti-Social Behaviour Crime and Policing Act 2014. This order already includes, a restriction on the consumption of intoxicating substances in certain designated streets of Exmouth and Sidmouth. The varied order could include addition of beach areas in Exmouth and certain locations identified as anticipated displacement. Exmouth Town Council will be consulted and invited to suggest amendments where they have evidence of an issue not currently covered by these controls. A public consultation period would be conducted. The council has the ability to further review the order during the next 2 years.

Is the proposed decision in accordance with:

Budget Yes ☒ No ☐

Policy Framework Yes ☒ No ☐

Recommendation:

1 That Cabinet resolve to carry out public consultation on proposals to vary the Exmouth ASB Public Spaces Protection Order 2020 -2023 as detailed in the report and receive a report with recommendations once the consultation has concluded.

Reason for recommendation:

The authority to go to public consultation and the urgent implementation of the variance of the change will allow for the order if agreed to be in place for the summer period 2021. This is a period where an increase in related anti-social behaviour problems can be anticipated due to the staycation.

Officer: David Whelan Community Safety Coordinator

Portfolio(s) (check which apply):

- ☐ Climate Action and Emergencies
- ☒ Coast, Country and Environment
- ☐ Council and Corporate Co-ordination
- ☒ Culture, Tourism, Leisure and Sport
- ☐ Democracy and Transparency
- ☐ Economy and Assets
- ☐ Finance

- ☐ Strategic Planning
- ☒ Sustainable Homes and Communities

Equalities impact Low Impact

Climate change Low Impact

Risk: Medium Risk; The review of the PSPO ensuring continuing relevance is a requirement of the Act and allows the council to retain controls over some problems caused by certain other behaviours which affect our residents and visitors. Variances to the order can be made to reflect the recent change in local behaviour and maintain the necessary enforcement mechanism for dealing with these specified issues. The basis of the variance could be misinterpreted by individuals as a ban on alcohol rather than a control on associated Anti-Social Behaviour.

Links to background information [Anti-Social Behaviour Crime and Policing Act 2014](#)

Link to [Council Plan](#):

Priorities (check which apply)

- ☒ Outstanding Place and Environment
- ☒ Outstanding Homes and Communities
- ☐ Outstanding Economic Growth, Productivity, and Prosperity
- ☒ Outstanding Council and Council Services

Report in full

1. PSPOs are tools under the Anti-Social Behaviour Crime and Policing Act 2014 which are intended to deal with particular nuisances or problems affecting a specified area that are detrimental to the local community's way of life. They can be used for a wide range of problems. The area may be as small as a play park or as large as the district of the local authority as a whole.

2. A PSPO can be made by the council if it is satisfied on reasonable grounds that the activities carried out, or 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;

And that the effect or likely effect of the activities:

- Is or is likely to be persistent or continuing in nature;
- Is or is likely to be unreasonable and
- Justifies the restrictions imposed.

3. PSPOs are used to control a range of activities where there is evidence of detriment. The following controls were included in the 2017 orders and have been retained in the 2020 orders. Control of anti-social behaviour and the consumption of intoxicating substances in Exmouth and Sidmouth – this order relates to a number of designated streets in Exmouth and Sidmouth where certain controls are needed at the request of Devon and Cornwall Police in order to enable them to manage behaviours. The streets included are those where there have been particular problems in past years. Although only 2 fixed penalty notices have been served under this order since its introduction, the ability to use the power to move individuals on and remove containers of alcohol is implemented weekly by the police. The businesses from the local area of the Strand ring on a weekly basis to report street drinking and anti-social behaviour during warmer weather, which the police respond to and deal with.

4. Over the last 3 years the Environmental Protection team have publicised the order on several occasions, they have talked to town and parish councils, community groups, residents,

businesses and visitors. They have also arranged for all the areas covered by specific orders to be appropriately signed and the orders themselves are on the council's website.

5. A person observed not to be complying with the PSPO is liable to receive a fixed penalty notice of £80. The alternative is to take enforcement action in the Magistrates Court. Some council officers and police officers are authorised to enforce the requirements of the orders.

6. There is a requirement in the legislation for interested parties to be consulted about the proposals of a variation. The last formal review of the PSPO was conducted by the Environmental Protection Team where Town and Parish councils were consulted in November 2019 and a public consultation process was undertaken between 23rd January and 20th March 2020. Council members and town and parish councils were also advised of this. Consultees also included Devon and Cornwall Police and the Police and Crime Commissioner. There was a press release drawing attention to the web based consultation, and paper copies were made available on request. The consultation responses were supportive.

7. In June 2020 on Exmouth Beach we saw a significant disturbance observed over a weekend exiting from Lockdown, these issues continued sporadically over that summer with a significant increase in ASB and littering linked to the alcohol fuelled ASB. It was felt at the time this was likely to be an isolated occasion/period of time.

8. This however reoccurred over the Easter bank holiday weekend 1st April to 5th April 2021 when the ability for groups to meet was released. Again alcohol fuelled ASB was seen on Exmouth beach with littering, Urination and Defecation occurring where the use of toilets has been restricted.

9. It is considered that during this summer and the demand of the Staycation we are likely to see an increased level of Alcohol fuelled ASB linked to the beach area. Holiday periods still to come are the half term break 31st May 2021 which includes a bank holiday Monday. End of summer term 27th July 2021, bank holiday weekend 30th August and the University Fresher's weeks in September.

10. The Police have the power to invoke Section 35 of the Anti-social Behaviour, Crime and Policing Act 2014 which when authorised by an Inspector allows them to move people on from identified locations for a period of 48 hours if they believe that crime and disorder is taking place or individuals are being subjected to Harassment alarm or distress. This has limited impact but is a very useful tool for the police which can be used alongside the PSPO.

11. The ASB PSPO in Appendix 1 gives the police the power to issue Fixed Penalty Notices (FPNs) to deal with the issues at hand as well as seize containers of alcohol. This allows them to effectively deal with the problems as well as retaining resources at the location of the incident unlike if they arrest individuals and have to take them into custody.

12. The PSPO is already in existence in a number of central streets in Exmouth and allows authorised officers to deal with individuals by way of fixed penalty notices for:

- (i) Possessing intoxicating substance including alcohol
- (ii) Urination and defecation within a street or public place
- (iii) Aggressive requests for money
- (iv) Intimidation, harassment, alarm or distress

13. The beach area and the area's considered displacement areas are likely to see behaviours of (i), (ii) & (iv) but section (iii) is not identified as part of the beach area problem, but a wider problem that is still seen in Exmouth.

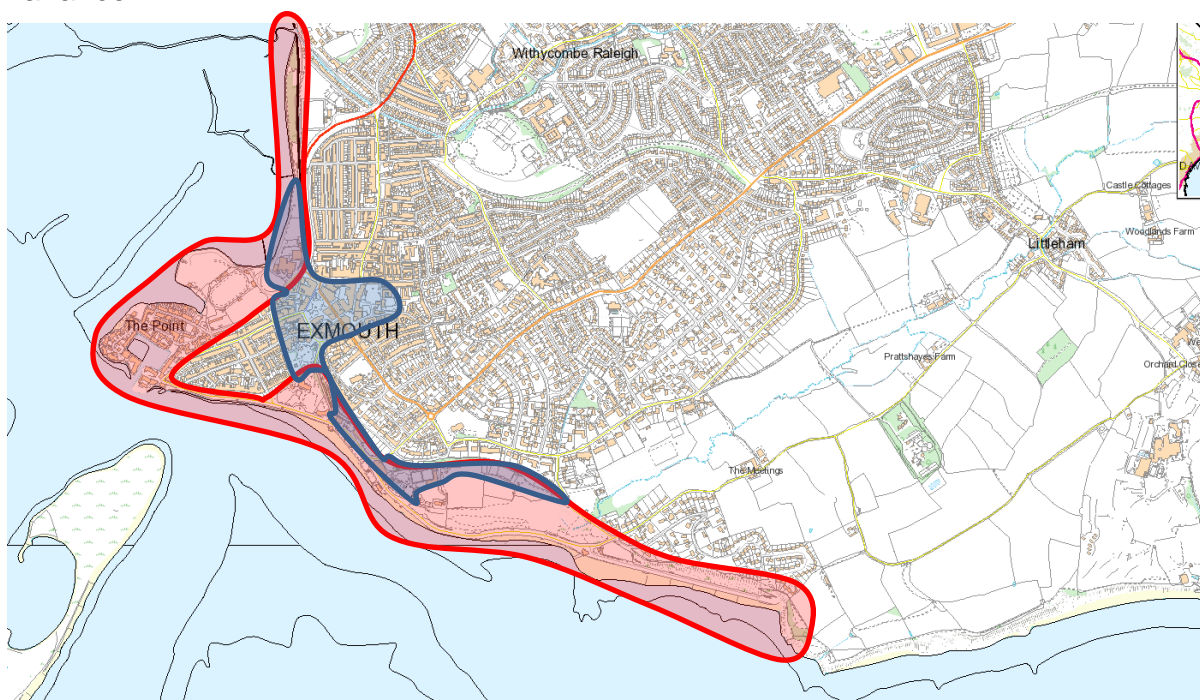
14. The proposal would be for a variation of the existing order in order to simplify understanding and enforcement of the PSPO as the locations are linked. The current locations for the PSPO work from the central Strand area towards the beach and further round towards the Estuary.

The area's of the most recent problems have centred around the beach from Orcombe point up towards Queens Drive(*In red italics*), The displacement considerations; Stretch East round on to

Sandy Bay beach and up onto Fox holes via the Zigzag path and around to The Geoneedle as well as West round to The Half-moon field (in purple underlined)

The Strand and surrounding area including: Manchester Street, Manchester Road, Elm Grove, Chapel Hill, Queen Street, Tower Street, High Street, Rolle Street.
The Magnolia centre and surrounding area including: Parade, Crudges Lane, Market Street, Magnolia Centre and Magnolia Walk, Chapel Street, Church Street, Margaret Street, London Inn car park and Lower Fore Street.
Station car park and surrounding area including: Commercial vehicle park, Bus station, Sports Centre grounds, Marine Way and Imperial Road.
The Manor Gardens
The Plantation and surrounding area: Bath Road, The Pavilion Grounds, Gunfield Gardens and Madeira Walk.
<p><i>Beach area from Sandy Bay via Orcombe Point; the coastal slopes and donkey field up onto Fox Holes Hill, the zig zag path, the path and area round to The Geoneedle</i></p> <p><i>past the RNLI station;</i></p> <p><i>past the coastguard look out station,</i></p> <p><i>past the Beach Gardens The Esplanade, The Maer, Queens Drive</i></p> <p><u>Mamhead view</u></p> <p><u>Pier Head</u></p> <p><u>The Point</u></p> <p><u>Past the Sailing Club</u></p> <p><u>Past Camperdown Yard and Imperial recreation Ground Royal Parade</u></p> <p><u>Across Shelley bank</u></p> <p><u>Along to the half-moon field</u></p>

15. Map of proposed variance. Blue is the current PSPO, red is the considered area of the variance.



Detailed map of current PSPO.



16. Consideration for inclusion of other coastal area's for an ASB PSPO was discounted at an early stage, as there has been limited reporting of historic problems and the transport infrastructure does not give the same level of access to the other coastal towns.

17. A period of consultation would need to be undertaken but this period could be kept to a minimal time frame of 5 weeks as other councils have done, early indications from Police and Exmouth Town clerks are they are supportive of the extension of the PSPO.

18. It can be anticipated that we may receive a number of challenges from the consultation if social media and press messaging is sensationalised that Exmouth has an alcohol ban in place for its beach. This will have normal members of the public airing their concerns that they will have police turning up and routinely just seizing their picnic drinks. The Police are going to need to be proportionate and sensitive around its enforcement, where it is linked as a precursor to ASB occurring or as a result of ASB occurring and use their discretion when to engage, when to educate, when to encourage and when there is a need to enforce.

19. Not extending the time frame for the variance allows it to come up for consideration at the same time period when the others are up for renewal.

20. The proposal would be to go out for public consultation over a five week period looking for a variance to the Exmouth and Sidmouth ASB PSPO. The variance by way of extension of Exmouth footprint. For the varied PSPO to be in place as early as possible for summer 2021.

21. Potential time scales

- Consultation period June – Mid July 2021
- SMT+ report Mid July
- Cabinet report for consideration of variance

Financial implications:

There appears to be no direct financial implication from the recommendation in this report

Legal implications:

While permissible to vary a PSPO to increase the area the relevant tests for having a PSPO are still required to be met in relation to the extended. Before varying formal consultation is required and due consideration and regard had to the responses prior to taking the decision. The Council should have regard to the public sector equality duty and possible need to carry out an impact assessment as well as human rights considerations prior to a final decision being taken. Further advice will be provided on this as necessary.