



North Devon Council

Report Date: Strategy & Resources on 6th March 2023

Topic: Extension of Ilfracombe Harbour & Adjacent streets PSPO

Report by: Legal/Hannah Pettifer on behalf of Harbourmaster

1. INTRODUCTION

- 1.1. The Council owns Ilfracombe Harbour, which is the largest harbour on the North Devon coast and which has been in existence as a port for several centuries. It is a working port to trawlers and potters, a recreational harbour to private owners and a commercial boat trip harbour for a diverse range of day trips.
- 1.2. In relation to the boat trips, complaints have been received over many years that ticket sales have become excessively competitive, with boat operators having engaged in "ticket-touting." This has taken the form of employees of the boat operators making multiple approaches to potential customers who have leaflets thrust on them as they approach and enter the Harbour area.
- 1.3. The competition in high summer is intense and so the ticket sellers have become more assertive in their techniques. This has led to confrontation between the operators in full view of the public. Such "ticket-touting" and confrontation have a negative effect on the well-being of the community, both local residents and visitors, and are unreasonable and unnecessary.
- 1.4. The Anti-Social Behaviour, Crime and Policing Act (2014) created provision for Public Spaces Protection Orders (PSPO's) to be made, thereby enabling local authorities to seek to prevent or restrict behaviour which is having a negative effect on communal well-being.
- 1.5. In order to address the problem of ticket-touting, in 2018/19 the Council made proposals for, and consulted widely upon, the making of a Public Spaces Protection Order in and around Ilfracombe Harbour. This process culminated in the Council making a Public Spaces Protection Order for a period of three years, to take effect from 1.4.20.
- 1.6. Following the success of the PSPO in regulating inappropriate ticket-touting, this report sets out the rationale for the proposal that the Council makes a further Public Spaces Protection Order in effect an extension of the existing Order at Ilfracombe Harbour, and on roads leading to the harbour, for a period of 3 years from 1.4.2023.

2. RECOMMENDATIONS

- 2.1. That delegated authority is given to the Head of Place Property & Regeneration, in consultation with the Leader and the Senior Solicitor and Monitoring Officer, to make the Public Spaces Protection Order in relation to Ilfracombe Harbour and roads adjacent to it, as per the Order attached at



Appendix A, following the conclusion and the consultation period referred to in paragraphs 4.13 and 4.14 below

3. REASONS FOR RECOMMENDATIONS

3.1 To restrict the practice of “ticket-touting” in and around Ilfracombe Harbour

3.2 To improve the quality of life for all in the vicinity.

4. REPORT

- 4.1. Ilfracombe Harbour is a historic and highly valuable asset for North Devon as a working port and tourist attraction. As a working port, the Harbour is home to trawlers and potters, recreational activities by private boat owners, and operators providing a diverse range of day trips.
- 4.2. Historically, in relation to those operators running boat trips, there has habitually been an element of “ticket-touting” in and around Ilfracombe Harbour, but with the increase in the number of commercial operators, this has increased in more recent years.
- 4.3. It seems to be the case that if one operator engages in “ticket-touting,” then the others have to become involved as well, and sometimes to a greater degree. This has led to operators, through their employees, making multiple approaches to members of the public as they approach the Harbour, with leaflets being thrust upon them.
- 4.4. The competition in the summer months is intense, with ticket sellers becoming more assertive, and this has led to confrontation between operators in full public view. Although visitors subjected to such activities have not made written complaints, it is nonetheless clear that the practices have attracted public disapproval and have had a negative effect on the reputation of the Harbour.
- 4.5. Such ticket-touting is unreasonable and unnecessary because the operators have kiosks from which they are able to operate, and this position will not change. When the re-development of the kiosks takes place, the boat operators will be designated an area where they can distribute leaflets and talk to the public.
- 4.6. In effect, it is the practice of competitive ticket-touting along Quay Road and adjoining areas which has historically caused a problem, and has led to the making of the previous Order in 2019 and again in 2020.
- 4.7. The Public Spaces Protection Order is a creation of the Anti-social Behaviour, Crime and Policing Act 2014 which, according to the statutory guidance, is “designed to stop individuals or groups committing anti-social behaviour in a public space.” Under the provisions, local authorities may seek to prevent or restrict behaviour which is having a negative effect on the communal well-being.
- 4.8. In pursuing a PSPO the 2014 Act states that a local authority should be satisfied on reasonable grounds that two conditions are met:

- (a) Activities carried on in a public place have had a detrimental effect on the quality of life of those in the locality
 - (b) The effect of the activities is of a persistent or continuing nature, is such as to make the activities unreasonable, and justifies the restrictions imposed by the notice.
- 4.9. A PSPO may last for a period of up to 3 years. A PSPO may be extended (and more than once) if it deemed by the local authority to continue to be appropriate to do so.
- 4.10. The Anti-social Behaviour, Crime and Policing Act 2014 sets out some key requirements as to the process for making a PSPO, including carrying out necessary consultation, necessary publicity and necessary notification with regard to the proposed PSPO.
- 4.11. As with the Order currently still in existence, and due to expire on 31st March 2023, it is proposed that a new PSPO be made, attached at Appendix A, which would prohibit, except under the express terms of a lease or a licence, the written permission of the Harbourmaster or an authorised Council Officer, anyone engaging in the soliciting of services by word of mouth or through the distribution by hand of any leaflet, pamphlet or circular. A plan of the area subject to the proposed PSPO is attached at Appendix B.
- 4.12. In proposing a new PSPO, it is accepted that the instances of ticket-touting in the last 12 months have been very limited, and there has been no need to implement the sanctions under the Order. Whilst it might be argued that there is thus little new evidence of the need for a continuing PSPO, the counter and preferred argument is that it is the PSPO which has prevented any significant recurrence of the problem.
- 4.13. Responses have been invited by way of consultation from key stakeholders and the public in the period from 13th February 2023 to 27th March 2023. The proposal will also be advertised in the North Devon Gazette on 15th March 2023.
- 4.14. The responses to the consultation process will be available on 27th March 2023 and it is anticipated that there will be little or no resistance to the continuance of the PSPO. Delegated authority for an officer to make the decision to proceed with the PSPO is sought because there is a need to have regard to the consultation that is carried out before making the decision and there is not time to return to committee before the current PSPO expires.
- 4.15. The proposed PSPO does not seek to vary the terms of the existing Order, which appears to have had a very positive effect in and around the harbour, and been embraced by businesses and the general public.
- 4.16. Alternative options – there are few alternative and viable options:
 - (a) Discouragement of touting activities over previous years by the Harbourmaster has not been successful, with those involved in the touting activities being apparently unwilling to subscribe to any voluntary guidelines



- (b) Turning a blind eye to the activity risks damaging the reputation of the Harbour and discouraging visitors from visiting or returning to it

5. RESOURCE IMPLICATIONS

There are no significant resource implications which would result from the introduction of the PSPO, other than the cost of signs in and around the Harbour, advising of the terms of the PSPO. This is on the assumption that there are no substantial enforcement issues which arise from infringements of the Order; such enforcement issues are not anticipated, having not occurred up to now.

6. EQUALITIES ASSESSMENT

- 6.1. Please detail if there are/are not any equalities implications anticipated as a result of this report. If so, please complete the Equality Impact
- 6.2. There are no significant implications which would result from the introduction of the PSPO,
- 6.3. Assessment (EIA) Summary form available on Insite and email to the Corporate and Community Services Team at equality@northdevon.gov.uk.
- 6.3.1. NONE

7. ENVIRONMENTAL ASSESSMENT

- 7.1. Please undertake an Environmental Assessment and complete the checklist (EAC) form available on Insite. If there are no environmental implications arising from your proposals please state that there are none. If after completion of the assessment there are environmental implications please provide a brief summary. If you require any further information please contact the Sustainability and Climate Change Officer. Email completed EACs to donna.sibley@torridge.gov.uk
- 7.1.1. NONE

8. CORPORATE PRIORITIES

- 8.1. What impact, positive or negative, does the subject of this report have on:
 - 8.1.1. The commercialisation agenda:
 - 8.1.1.1. This PSPO demonstrates that North Devon District Council is complying with its duties under the Legislative and Regulatory Reform Act 2006.
 - 8.1.2. Improving customer focus and/or
 - 8.1.2.1. A Framework to support expectations for compliance and enforcement from the Council
 - 8.1.3. Regeneration or economic development
 - 8.1.3.1. None

9. CONSTITUTIONAL CONTEXT

9.1. Part 3 Annex 1 paragraph: 1(f)

9.2. Referred or delegated power?

Delegated

10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

- The consultation process
- Anti-social Behaviour, Crime and Policing Act 2014

12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officer

Hannah Pettifer, Chartered Legal Exec., Legal Services