



OFFICER DECISION RECORD

This form should be used to record Executive decisions taken by Officers

Decision Ref. No:			
Service Area:	Communities	Date:	19 January 2023
Contact Name:	Nananka Randle	Tel No:	
E-mail:	nananka.randle@bcpcouncil.gov.uk		
Subject:	Approval of final proposals and consultation documents for proposed Coastal and Open Spaces Public Spaces Protection Order (PSPO)		
Decisions taken:			
<p>The Director of Communities is asked to make the following decision:</p> <ol style="list-style-type: none"> 1. Agree to commence a public consultation on the potential to implement Public Spaces Protection Orders in respect of the following: <ul style="list-style-type: none"> • Playing loud music to include amplified or acoustic instruments or singing at levels which has a detrimental impact on others. • To act in a manner which has a detrimental impact on others in the locality which includes but is not limited to, the irresponsible lighting of fires or BBQ's, swearing, spitting, and causing intimidation either by an individual or a group. • Overnight camping, staying or sleeping with or without a tent or gazebo, on beaches or open spaces. • Overnight staying or sleeping within vehicles in car parks and other open spaces. • On beaches and coastal areas a person or persons are prohibited from having open fires at any time. In addition BBQ's on the beach or coastal areas can only be used/lit between the hours of 18:00 – 07:00. • In open spaces a person or persons are prohibited from the following activities: the lighting of fires; lighting any barbecues; or using any article/object which causes a naked flame, and which poses a risk of fire. 2. Agree that the public consultation shall commence on the 23 January 2023 for a period of four weeks. 			

The Portfolio Holder for Community Safety and Regulation has been consulted in reaching this decision.

Reasons for the decision:

A report was presented to Cabinet on the 14 December 2022 and is appended to this report at Appendix a. This report provides detailed background to this matter. Below is a summary of the issues and the reasons for the decision sought:

Through the Seasonal Response Programme delivered at peak visitor periods over the last two years, a number of negative behaviours presented by some individuals have impacted on our environment, on visitor and resident enjoyment of our beaches and open spaces and have required significant additional resource to manage despite best efforts. The Seasonal Response Programme successfully addressed issues as they emerged during these peaks by increasing staff within key core services and targeting known hot spot areas with proactive security and staff presence. However, robust enforcement of particular behaviours is limited given antiquated bylaws and restrictions of existing legislation resulting in limited prevention and impact in addressing the issues in real time.

A review of the Seasonal Response activity over the last two years has highlighted the success of the programme, but noted the management of challenging behaviours as a priority area for development. Having explored all available options for addressing this, the review resulted in a recommendation to consider the use of Public Spaces Protection Orders (PSPO's) where appropriate, in order to prohibit these behaviours, thereby creating a strong deterrent and enabling the Council to take effective action in a timely manner.

On 14 December 2022, Cabinet resolved to: Delegate authority to the Director of Communities in consultation with the Portfolio Holder for Community Safety and Regulation, to approve the final proposals and consultation documents by way of a Portfolio Holder Decision. The Portfolio Holder has been consulted in relation to the decision to consult.

A detailed evidence assessment has been concluded. The next step is to launch a public consultation on the resulting proposals which are outlined in this decision record.

Following completion of the public consultation, a further options appraisal will be completed to include full consideration of the feedback from consultees with recommendations on final proposals and implementation as appropriate.

Background:

1. The rationale for the PSPO's sought is detailed in the Cabinet report in the appendix attached and so is not repeated here. The measures proposed will have an impact on the way in which some residents of and visitors to the BCP Council area use the beach area. Before implementing such restrictions therefore it is proposed that there should be a full and comprehensive consultation making sure that all residents have the opportunity to have their say. The results of the consultation will then be carefully considered along side any equalities considerations.
2. Regard has been given to equalities matters when considering whether or not to pursue PSPOs in the form set out in the cabinet report. We have considered protected characteristics and local priority groups in drafting the proposals. A full EQiA will be undertaken once the results of consultation have been received.
3. Having reviewed all available preventative and enforcement tools available, a PSPO is considered the best option to tackle the persistent behaviours negatively impacting on residents and visitors to our beaches and open spaces. It also

protects Council resources and supports the efficient management of the resort during peak periods.

4. The most challenging behaviours that generate complaints and have a detrimental impact on visitors and residents have been examined and the proposals outlined are driven by this evidence.
5. An options appraisal has taken place considering the evidence relating to the behaviours to be prohibited as follows:-

Proposed prohibition; Playing loud music to include amplified or acoustic instruments or singing at levels which has a detrimental impact on others.

Evidence Summary

6. Throughout the Summer of 2022, there were 18 logged complaints/incidents, where tourists or locals have been disrupted by groups or individuals playing loud music or making noise. Most of these incidents tend to be associated with groups of people and have significant impact, particularly where residential areas are in close proximity.
7. July and August registered the most complaints. Frequently these complaints were received during the afternoon and evenings. In most cases officers advice was complied with and the music was turned down. However, there are examples of escalation including ASB, public order issues and significant disruption.

Assessment

8. Although the evidence does not identify significant numbers, the disruption caused by inconsiderate music or noise has wider impacts on residents, beach users or those in beach huts. The majority of incidents were resolved informally. However in some cases officers reported the music resumed once they walked away and without firmer resolution powers these incidents continued to adversely impact those in the vicinity and disturbed sleeping and enjoyment of the beach areas.
9. Some incidents occurred in locations away from the seafront in car parks where vehicles were being used for overnight sleeping.
10. The complaints occur primarily in afternoons and into the night during summer months from April to the end of August.

Locations

11. As this activity is one which could easily be displaced and cause issues in seafront and car park locations, it is proposed to include all coastal beachfront areas including pier approaches and promenades from the Ham Common peninsula to Highcliffe.
12. In addition, this behaviour would be addressed in identified car park locations and surrounding roads.

Proposed prohibition; To act in a manner which has a detrimental impact on others in the locality which includes but is not limited to, the irresponsible lighting of fires or BBQ's, swearing, spitting, and causing intimidation either by an individual or a group.

Evidence Summary

13. Between May 2022 and the end of August 22 there were 69 reported incidents of antisocial behaviours of this nature dealt with by security or seafront officers. During peak visitor periods of hot weather up to 6 incidents per day were recorded, demonstrating persistent and ongoing impact.

Assessment

14. A large number of incidents relate to groups of people who had been drinking alcohol and resulting fights or arguments.
15. Whilst not all of these behaviours relate to consumption of alcohol, it is important to note that there is already a PSPO in place within parts of BCP to address issues with alcohol consumption and related ASB. However, the associated behaviours can manifest in a broad area and inclusion within this PSPO will address the wider impacts and will support enforcement where drivers are not related to the consumption of alcohol.
16. Larger groups of people tend to be intimidating and if displaying aggressive or antisocial behaviour, reports show this impact on the enjoyment of the beach areas for others particularly families with young children and those with beach huts who cannot move away.
17. This also gives officers the opportunity to request those not ceasing antisocial behaviour to leave the area without relying on Police attendance and use of their powers.

Locations

22. The main locations reported are on the beaches, around piers, coastal areas with residential accommodation and hotel premises on clifftops.
23. To address displacement the recommendation is to include all coastal beachfront from Ham Common peninsula to Highcliffe.
24. Identified car parks associated with overnight sleeping will also be included.

Proposed prohibition; Overnight camping, staying or sleeping with or without a tent or gazebo, on beaches or open spaces.

Evidence Summary

25. Following increased costs of living in 2022 and hotel room rates, there was a noted increase in the number of people choosing to sleep overnight on the beaches in tents rather than pay for a hotel room. This resulted in multiple complaints about antisocial behaviours such as littering and public urination and defecation.
26. Proactive patrols by security officers and seafront staff resulted in 139 tent eviction notices being issued for overnight camping on the beaches. In addition, there were 25 complaints from members of the public between June and August 2022.
27. July and August were the months where most incidents were recorded, the peak days coinciding with the peak visitor numbers and temperatures. The incidents are logged in between 19:00 and 02:00 , mostly around 23:00. Most people ignored and/or refused security's advice to move on and there was a trend in aggressive behaviour towards staff.
28. The parks teams reported 33 incidents of unauthorised camping on open spaces and heath land issues with overnight camping/rough sleeping in parks areas such as Canford heath, Ham Common, Durley Chine and Hengistbury Head.

Assessment

29. Sleeping in tents on the beach and in open spaces results in rubbish left to accumulate and with no open or easily accessible toilet facilities there are wider impacts of urination and defecation on the seafront and open space areas, presenting risks to public health. This requires cleaning before families and other users arrive.

30. Some unauthorised encampments may be due to rough sleeping and it is essential to ensure partners are linked in to provide support services as necessary in these circumstances.
31. For the Bournemouth area, a bylaw is in place designed to control overnight sleeping. However, in reality the wording of this bylaw prohibits proactive action and enforcement through prosecution (fixed penalty notice obtained through the Courts) can only be achieved in slow time. The inclusion in a PSPO will act as a preventative measure as well as to allow real time enforcement.
32. It is acknowledged that this proposed prohibition may impact on other legitimate users of the area who stay overnight, such as fisherman who may put up a tent/shelter for the night. The proposed requirement to be included will require written permission from an authorised officer and this would cover large fishing events which are given permission before they go ahead. As such an exemption is recommended to allow Bonafede fishing. Authorised officers would be required to use their discretion and will be provided with training to differentiate between someone on the beach at night for fishing and someone claiming to fish in order to sleep overnight.

Locations

33. The main locations reported are on the beaches including around piers and in open spaces.
34. To address displacement the recommendation is to include all coastal beaches from Lake Pier to Highcliffe.
35. Other open spaces include Hengistbury Head, Ham Common, Canford Heath, Bourne Valley, St Catherine's hill, Riversmeet SANG, Stanpit Marsh, Stour Valley NR, Durley Chine, Alum Chine, Branksome Dene, Branksome Chine, Boscombe Cliff Gardens, Boscombe Overcliff, Boscombe Gardens, Kings Park, Haskel's Rec, Turbary Common, Talbott Heath, Alder Hills.

Proposed prohibition; Overnight staying or sleeping within vehicles in car parks and other open spaces.

Evidence Summary

36. There is a wide distribution of overnight camping occurring across the summer period, and this increased during 2022. A number have resulted in repeated residential complaints.
37. In total there were 73 recorded incidents of overnight staying or sleeping in vehicles reported to between March and October by the highways/parking team. Separate incidents of unauthorised group encampments are recorded separately.

Assessment

38. Campervan living has risen in popularity over recent years and increasingly people are parking in surface car parks and staying overnight rather than attending campsites or touring parks.
39. Traffic legislation does not allow us to directly stop this activity as sleeping in a stationary vehicle is not a traffic offence. In some areas we have motor car and motorcycle only restrictions and these mean we can prevent medium and larger size motor homes but not the smaller ones.
40. Unfortunately, those staying overnight do more than sleep. There are wider issues seen including disturbance as a result of loud music, rubbish accumulations and

due to lack of toilet facilities, urination and defecation in the area, creating public health risks.

41. It is not anticipated that this PSPO will tackle unauthorised group encampments. There is primary legislation under the Criminal Justice and Policing Act 1994 which allows service of direction to leave notices which are then enforced either via a notice from the Police or Court action by the Council to ensure that the group encampments can be moved on.. This will be addressed within any equality assessment.
42. There could be wider displacement into other car parks or residential areas within the conurbation which will be monitored and assessed during the PSPO period. If it becomes an issue this can be addressed by variation of any PSPO as necessary.
43. Within BCP there are limited, if any, camping sites for vans or mobile homes this may generate negative responses in any consultation. This does not however mitigate the risks or need to address the behaviour which is negatively impacting on those in the locality of the car parks under consideration

Locations

44. The identified area will cover all highways and car parks within the defined area from Hamworthy to Christchurch this will address any issues with displacement into the wider community and other car parks and coastal roads.

Lighting Fires and BBQ's

45. The following proposed prohibitions address the lighting of fires and BBQs in order to address risks relating to fire and injury. There are two options proposed as the locations require different approaches. Our open spaces represent a high risk of wildfires that can cover large areas, whereas our coastal areas are more at risk from smaller contained fires. It is acknowledged that there may be strong public opinion in relation to these proposals and this will be a key factor in considering any final proposed PSPO following consultation feedback.

Proposed prohibition; In open spaces a person or persons are prohibited from the following activities: the lighting of fires; lighting any barbecues; or using any article/object which causes a naked flame, and which poses a risk of fire.

Evidence

46. Dorset and Wiltshire Fire and Rescue Service as well as BCP Council Parks teams all report issues with open fires causing widespread damage and distress to parks users and visitors.
47. Total number of Wildfires attended in BCP area
Jan – Oct 2021 – 126
Jan – Oct 2022 – 231 – increase of 83.33%
48. Ranger reports evidence over 150 incidents in open spaces from campfires and disposable BBQs discarded and left in open spaces during 2022. At Durley Chine alone there were over 40 incidents of BBQ use in the open grass alongside paths during 2022.
49. Ham Common is a repeat location for fires with disposable BBQs found in the lake, and on the beach areas.
50. Canford Heath suffered a number of fires over the summer. Ranger reports include deliberately set fires, litter and campfire debris left in situ.

Assessment

51. Our open spaces are valuable assets for all to enjoy and during our increasingly hot dry summer months even the most carefully set fire can quickly get out of control and cause widespread damage and impact adversely on local residents and visitors. The damage caused can prevent the use of entire open areas for months. The ecological damage to flora and fauna is also immeasurable.
52. Dorset and Wiltshire Fire and Rescue Service were approached and welcome any actions which will reduce the risks of fires during high-risk times of the year.
53. Ranger reports evidence discarded cigarettes found smouldering, risks from camping stoves used in high risk areas. This supports the proposed prohibitions to include items that can cause a naked flame and poses a risk of fire.

Locations

54. Open spaces include identified by the parks team are:- Hengistbury Head, Ham Common, Canford Heath, Bourne Valley, St Catherine's hill, Riversmeet SANG, Stanpit Marsh, Stour Valley NR, Durley Chine, Alum Chine, Branksome Dene, Branksome Chine, Boscombe Cliff Gardens, Boscombe Overcliff, Boscombe Gardens, Kings Park, Haskel's Rec, Turbary Common, Talbott Heath, Alder Hills.

Proposed prohibition; On beaches and coastal areas a person or persons are prohibited from having open fires at any time. In addition BBQ's on the beach or coastal areas can only be used/lit between the hours of 18:00 – 07:00.

Evidence Summary

55. Dorset and Wiltshire Fire and Rescue Service has reported 37 Incidents in 2022 on the Seafront mainly due accidental small fires.
56. 20 seafront bins were damaged due to disposal of BBQ coals in 2022.
57. Security patrols have recorded 217 fire incidents across the seafront, peak days being 13 and 20 of August 2022, where up to 10 fire incidents per day were logged. Most fire incidents occurred during evening hours between 21:00 and 02:00.
58. Seafront services report historic injuries due to buried hot coals and disposable BBQ's.

Assessment

59. Generally, the irresponsible disposal of BBQ's and hot coals has caused fires in and around waste receptacles on the seafront. This puts pressure on the emergency services as well as adversely impacting on visitors and residents in the vicinity.
60. The persistent issues throughout the summer months demonstrates a need to address this behaviour. It is recognised that many visitors and residents have BBQ's on the beach without incident, it is the disposal of the embers or throwing away of hot disposable BBQ's that causes fires.
61. One option explored was the provision of bins specifically for the proper disposal of BBQ coals/disposable BBQ's. Seafront services advise that this was a provision historically, but these bins suffered damage (weather and hot coal related) over the years and are not a viable option due to the nature of current waste removal contracts.
62. It is recognised that some residents do not have access to gardens and as such benefit from the ability to use the beach location for BBQ's, limiting the permitted times BBQ are permitted on the beaches may impact disproportionately to those

without gardens. However during the day there are electric hotplate BBQ's available on the seafronts.

63. Seafront services report that during high visitor periods primarily during the day before 1800 the sheer number of people on the beaches means it is not possible to effectively enforce BBQ usage and it is during these periods that the risks of injury are increased. Later, after 1800 when numbers have reduced, BBQ's can be permitted and allows seafront staff to target resources and enforce as necessary. When visitor numbers have reduced and there is greater spacing between visitors the seafront services can manage the responsible use of BBQ's.
64. Larger non contained fires on the beach leave debris and waste in the vicinity associated with the later night party activities associated with fires on the beach during the summer months.
65. The evidence shows the main issues with fires between the hours of 21:00 and 02:00 when people have been drinking alcohol and are less responsible in the disposal of coals. However, if BBQ use is restricted it is likely people may then light open fires instead. This is why it is proposed to address this by a total ban of open fires.
66. It is recommended that as part of the public consultation, opinion is sought on a ban of disposable BBQ's in coastal areas and on the detail of the proposed prohibition as it is acknowledged there is likely to be strong public opinion relating to this.

Location

67. To address displacement, the recommendation is to include all coastal beaches from Ham Common peninsula to Highcliffe.
68. The feasibility assessment previously completed considered the inclusion of littering within the PSPO proposals. However, the options appraisal has concluded that it is not appropriate to include this as the Council has primary legislation available to address this issue.

Assessment

69. The Council is the enforcement authority in relation to littering offences. Unlike the other behaviours within this appraisal there is primary legislation which allows authorised officers to issue Fixed Penalty Notices (FPN) for littering anywhere in the conurbation as such the behaviour to be addressed by the PSPO is already an offence and liable to a FPN at any location within the conurbation.
70. By having a PSPO for littering it has been identified that this may cause confusion by those who then try to argue they were not within the PSPO area when they littered, when it fact is in an offence anywhere.
71. The Council is already taking steps to improve litter enforcement by including this within the specification for a tender for an enforcement partner covering fly tipping, fly posting and littering. This was approved at Cabinet in November 2022 and the tender will be complete by March 2022.
72. In addition, the power to issue a Fixed Penalty Notice for littering can be delegated to any front line staff who will be responsible for enforcing the PSPO as part of the enforcement protocol. The advantage of this would be that littering FPN's could then be issued anywhere that front line staff witness this behaviour not just limited to the PSPO area which could then allow action to be taken in and through the gardens and town centre locations by duly authorised staff.

73. It is therefore recommended that all front line staff who will be part of the PSPO enforcement activity will also be given delegated authority to enforce the legislation this would also include parks and rangers who have reported frustration with not being able to tackle littering when they witness it.

Enforcement Period for all proposed prohibitions

74. It is proposed that the coastal and open spaces proposed PSPO's would be in force from 1 March to 31 October 2023.

75. Evidence demonstrates the persistent and ongoing nature of the issues identified throughout the summer period up to and including the Air Festival. Although most incidents are recorded from May, there is often an influx of visitors from March onwards particularly when Easter falls early and particularly when the weather is good.

76. This timeframe also addresses parking high season concerns over the peak parking period of 1 March to 31 October 2023.

77. With regard to the end date, as the dates for events shifts year on year it is proposed to implement a mid-September end date just after the schools go back for the Autumn term.

Recommendations Summary

78. It is proposed to consult on three separate PSPOs which would cover different geographical areas and proposed prohibitions based on the evidence and officer consultation.

- i) **Coastal areas including beaches, pier approaches and up to cliff tops from Ham Common peninsula to Highcliffe.** This will cover playing of loud music, acting in an antisocial manner, overnight camping/sleeping, lighting of open fires and BBQs
- ii) **Highways and car parks, a defined area from the coast inland up to the major roads boundary road** will prohibit overnight sleeping in vehicles, loud music and acting in an antisocial manner.
- iii) **Opens spaces as identified** and covers overnight camping, fires and BBQ's

79. Copies of the draft orders are included at Appendix 1 -3. An interactive map showing all proposed locations is included in the background papers.

80. The legal officer has reviewed the proposals including the evidence and has confirmed that the legal threshold to support pursuing public consultation on the proposals has been met.

81. If agreed, public consultation would begin on 23 January 2023 and run for 28 days.

Public Consultation

82. A consultation document will be provided which gives information about the proposal and the rationale for its consideration. Detailed maps will be provided so consultees can clearly see the areas the proposed PSPOs will cover. A consultation response questionnaire seek residents, visitors, businesses and other stakeholders' views about each of the three proposed PSPO areas and each proposed prohibition. Respondents will be able to provide comments via free text questions which will be fully considered. A full list of equality questions will be asked in the consultation, and this will allow full consideration of how this proposal affects different groups of people.

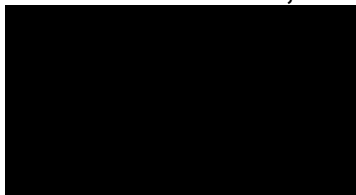
83. All of the consultation material will be hosted on our digital engagement hub, with hard copies available in libraries and seafront offices and visitor centres. The consultation document will include an email address for people to email if they require a different format or language version of the consultation material or support with completing the consultation.
84. A press release will be issued, and the consultation promoted through the council's social media channels, councils e newsletter and to those registered with the digital engagement platform.
85. Signage will be displayed in all areas to be included within the proposed PSPOs which will provide information and a QR code for the online consultation.
86. Seafront services will engage with the four beach hut associations, Friars Cliff, Mudeford, Bournemouth and Poole and ask them to share the consultation with their members.
87. Direct links to the online consultation documents will be issued directly to the statutory consultees Dorset Police and Crime Commissioner and Dorset Police as well as elected members and key stakeholders including Dorset and Wiltshire Fire Service, Town and Parish Councils and Beach Huts Associations and businesses.
88. Paper copies of the consultation questionnaire will be provided in libraries, seafront offices and visitor centres and alternative formats available upon request.
89. A communications plan including social media messaging will take place during the course of the consultation.
90. Once the consultation is completed an analysis report will be produced setting out the main findings.
91. The outcome of the consultation will then be considered prior to any final decision.

Finance and Resourcing Implications: It is anticipated that given the potentially broad geographical area and multiple Orders under consideration, the costs of consultation and implementation will be in the region of £40,000 to include legal advice, consultation costs and signage.

These costs will be met from the Community Safety Reserve which has an available balance.

Name: Nicola Webb, Assistant Chief Finance Officer

Date: 20.1.23



Signature (of Chief Finance Officer):

Legal Implications: For a PSPO to be considered then it must follow the statutory consultation as set out in Section 72(3) and (4) of the Antisocial Behaviour, Crime and Policing Act 2014 and have regard to any Statutory Guidance issued by The Secretary of State in accordance with Section 73 of the Anti-Social Behaviour, Crime and Policing Act 2014

Failure to do so, or not to do so adequately, is likely to make any decision thereafter unlawful and will open the Council up to a High Court challenge under Section 66 of the

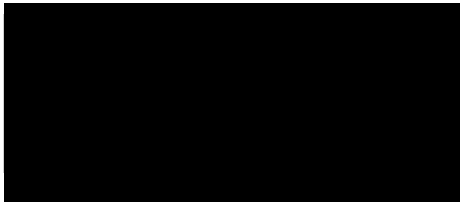
ASB, Crime and Policing Act 2014. If such a challenge were made there would be costs implications to the Council. By virtue of Section 66 (4) of ASB, Crime and Policing Act 2014, if such a challenge were made , the Court has the power to suspend a PSPO until the final determination of the challenge.

On the 14 December 2022, Cabinet agreed to delegate authority to the Director of Communities in consultation with the Portfolio Holder for Community Safety and Regulation, to approve the final proposals and consultation documents by way of a Portfolio Holder Decision.

This report provides details of the consultation to be carried out. Where a duty to consult is triggered the law requires that the consultation is taken at a time when proposals are at a formative stage, that sufficient information is provided in the consultation to allow those consulted to make informed responses and that sufficient time to allow consultees to respond must be given. Responses of consultation must be given due regard.

Name: Susan Zeiss, Monitoring Officer

Date: 20.1.23



Signature (of Monitoring Officer):

Risk Assessment: Failure to do follow the legal process and consult, or not to do so adequately, is likely to I make any decision thereafter unlawful and will open the Council up to a High Court challenge under Section 66 of the ASB, Crime and Policing Act 2014. If such a challenge were made there would be cost implications to the Council.

Name: Kelly Ansell

Date: 20.1.23

Signature (of Officer Completing Assessment):

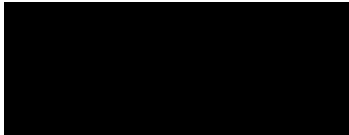


Appendices

Appendix a - Cabinet - Report Protecting our coastal and open spaces – 14 December 2022

<https://democracy.bpcouncil.gov.uk/ieDecisionDetails.aspx?ID=592>

Any declaration of interest by the Officer responsible for the decision	Nature of Interest

None			
Note:			
Any conflict of interest declared by a Cabinet Member who is consulted by the Officer taking the decision	Name of Cabinet Member	Nature of interest	Details of any dispensation granted by the Monitoring Officer
No	Cllr Bobbie Dove	n/a	n/a
Decision taken by: Kelly Ansell, Director of Communities			
Signature:		Date of Decision: 20 January 2023	
		Date Decision Effective: 20 January 2023	
		Date of Publication of record of decision: (to be inserted by Democratic Services)	

Note: A record of this decision should be kept by the Service Area within which the decision falls.