

Report of: Head of Operational Delivery – ASB, Hate Crime & Security Services

Report to: Director of Communities and Environment

Date: 20th August 2018

Subject: Public Space Protection Order for the ‘Nowells area’ of Harehills, Leeds

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Burmantofts and Richmond Hill
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:	
Appendix number:	
<i>If the information is exempt rather than confidential, the public interest test should be addressed under ‘Legal Implications, Access to Information and Call-In’ in section 4.</i>	

Summary of main issues

1. This report supports both the Safer Leeds Executive report dated the 19th of July 2018, and the associated Delegated Decision Notification (DDN) report.
2. This report provides the Director of Communities and Environment with an overview of the requirement and need to approve this Public Space Protection Order.
3. This report relates to a ‘Key Decision’ as the proposals are deemed to:
 - to have a significant effect on communities living or working in an area (including one ward);
 - and
 - which is not a decision which a direct consequence of implementing a previous Key decision, or in relation to which a further report will be submitted for approval of the proposal before the council is committed to proceed, or

- which is not the result of varying a previous key decision in line with recommendations made by a scrutiny board following a call in of that decision.

Recommendations

4. The Director of Communities and Environments to approve this request for this PSPO as part of his delegated decision authority.
5. The Director of Communities and Environments is advised that it is anticipated that the PSPO will come into force not before 6th September 2018.
6. That the Head of Operational Delivery ASB, Hate Crime & Security Services is the Officer responsible for implementation.

1 Purpose of this report

- 1.1 This report supports the Safer Leeds Executive report dated 19th of July 2018, following the Safer Leeds Executive decision made on 19 July 2018 to agree in principle the proposals for this PSPO for the Nowells area of Harehills.

2 Background information

- 2.1 The Safer Leeds Executive report dated 19th of July 2018, updates on the process that has been followed to enable Leeds City Council to consider the introduction of a PSPO in the Leeds local authority area. The report considers the statutory consultation exercise conducted by the Council. It examines the responses to consultation and the main substantive issues raised during the consultation process.

3 Main issues

- 3.1 Leeds City Council is to introduce a Public Space Protection Orders (PSPOs) for an area of Harehills in Leeds. The 'Order' is being considered to address issues around high levels of Criminal damage, Violent Crime and Anti-Social behaviour reported and recorded within the proposed area.
- 3.2 This PSPO will deal with particular nuisance in a defined public space where this is having a negative impact on the quality of life for those who live or visit that public space. A PSPO can stop, control or require an activity. For example, it may limit the number of persons who may congregate and behave in a particular public space.
- 3.3 Before introducing a PSPO the council must decide if it passes the legal test. For this, the behaviour being restricted has to:
- Be having, or is likely to have, a detrimental (harmful) effect on the quality of life of those in the locality;
 - Be persistent or continuing in nature; and
 - Be unreasonable
 - Justify the restrictions imposed.
- 3.4 The duration being sought for this PSPO is one year, but it can be renewed if necessary. Failure to comply with an order can result in a Fixed Penalty Notice of no more than £100 or a maximum fine of £1000.
- 3.5 There are three highlighted behaviour types that this PSPO will seek to address:
- 3.6 Criminal Damage-
- Safer Leeds has evidence and anecdotal information from Safer Leeds Analytical Team, West Yorkshire Police, and Ward Councillors evidencing the high rate of reported acts of deliberate damage to property within the proposed PSPO area.

- Leeds City Council, West Yorkshire Police, and Community Safety Partners including Ward Councillors have been advised that the use of a PSPO is a useful tool for agencies to use when responding to concerns of anti- social behaviour including acts of Criminal damage. They have told us that providing the legal ‘test’ is met, they would like a PSPO in this area.
- It is therefore proposed that the proposed PSPOs will include a provision which makes it clear that ‘Person(s) will not: be in groups of 2 or more and engage in anti-social behaviour likely to cause nuisance or annoyance to any other person in the zone”.

3.7 Violent Crime –

- Safer Leeds has evidence and anecdotal information from Safer Leeds Analytical Team, West Yorkshire Police, and Ward Councillors evidencing the high rate of acts of violent crime within the proposed PSPO area.
- Leeds City Council, West Yorkshire Police, and Community Safety Partners including Ward Councillors have been advised that the use of a PSPO is a useful tool for agencies to use when responding to concerns of anti- social behaviour including acts of Violent Crime. They have told us that providing the legal ‘test’ is met, they would like a PSPO in this area.
- It is therefore proposed that the proposed PSPOs will include a provision which makes it clear that ‘Person(s) will not: be in groups of 2 or more and engage in anti-social behaviour likely to cause nuisance or annoyance to any other person in the zone”.

3.8 Anti-Social behaviour-

- Safer Leeds has evidence and anecdotal information from Safer Leeds Analytical Team, West Yorkshire Police, and Ward Councillors evidencing the high rate of reported acts of anti-social behaviour and nuisance within the proposed PSPO area.
- Leeds City Council, West Yorkshire Police, and Community Safety Partners including Ward Councillors have been advised that the use of a PSPO is a useful tool for agencies to use when responding to concerns of anti- social behaviour. They have told us that providing the legal ‘test’ is met, they would like a PSPO in this area.
- It is therefore proposed that the proposed PSPOs will include a provision which makes it clear that ‘Person(s) will not: be in groups of 2 or more and engage in anti-social behaviour likely to cause nuisance or annoyance to any other person in the zone”.

3.9 Our proposals for this PSPO supports the KPI of a ‘Decrease in reported anti-social behaviour / nuisance concerns’; which is outlined in the Best Council Plan 2017/18: Tackling poverty and reducing inequalities; Resilient communities.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Safer Leeds has carried out extensive consultation with community safety partner agencies, Leeds City Ward Members, the Police and Crime Commissioner and community representatives and stakeholders; including that required by statute. This consultation is outlined in the Safer Leeds Executive report dated 19th of July 2018.

4.1.2 It is recognised that the PSPO consultation could be of interest to many sections of the community, including public and special interest groups. Accordingly, Safer Leeds has consulted widely.

4.1.3 **A letter drop** was carried out in the first instance to every single property located in the zone (583 in total). A copy of this letter is attached on appendix A.

4.1.4 The letter gave a brief explanation about the proposed order and gave a number of lines of communication for residents to feedback on the proposals.

4.1.5 **Email and written responses** – Eighteen written responses were received via email and post. All eighteen supported the proposals and no objections were raised. Some extracts from the responses are detailed below.

- *I am a resident in the Nowells, and I wholeheartedly support this proposed PSPO. It can't come soon enough*
- *It is sad that you are having to consider this action because some people choose to not play by the rules and make people feel uncomfortable in their homes or scared to go out but as I say I fully support your efforts. Thank you again for notifying me of your plans and thank you for your efforts to try and sort out the people who do not wish to support this community.*
- *I am writing in response to a proposal to issue a Public Spaces Protection Order (PSPO) on Nowells estate. I aware that the intent of the proposal is to tackle high levels of reported anti-social behaviour in the area. Therefore, I absolutely support it.*
- *I am a resident in the Nowells, and I wholeheartedly support this proposed PSPO. It can't come soon enough, the vast majority of residents who live here deserve the right to do so without fear and intimidation.*
- *It's long overdue that something should be done about the ongoing problems in the area.*
- *I'm hopeful that having this order will put a stop to the anti-social behaviour that so many of us have to endure.*
- *I think the PSPO seems like the perfect way of trying to deal with the issues initially as they are often caused by groups of people.*

4.1.6 **Telephone** – Three residents contacted the department supporting the proposals.

4.1.7 **Community drop in session** – Nineteen residents attended the session and all supported the proposals. The summary of the feedback from the session was that the community supported the proposal and felt reassured that it was being considered.

- 4.1.8 **Local government and elected members-** Councillor Khan and Councillor Grahame were consulted on the Monday 25th June 2018. They fully support the order.
- 4.1.9 **Local Police** – Chief Superintendent Money was consulted as head of Leeds District Police and supported the order in principle. The Local Neighbourhood Policing Team (NPT) officers for the area were also consulted. Sgt McNiff and PC Wilson support the order, and have committed to extra resources in the area in the initial implementation stage whilst the order beds in.
- 4.1.10 **Police and Crime Commissioner** – Commissioner Mark Burns-Williamson was consulted on Monday the 9th July and supports the order.
- 4.1.11 **Youth Offending Team** – The local Youth Offending Team were consulted and have agreed to the enforcement policy detailed in Section 4, where Youth Offending Team referrals will be made for 2nd stage breaches where youths are involved.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Safer Leeds has carried out an Equality Impact Assessment.

4.3 Council policies and the Best Council Plan

- 4.3.1 Our proposals for this PSPO supports the KPI of a 'Decrease in reported anti-social behaviour / nuisance concerns'; which is outlined in the Best Council Plan 2017/18: Tackling poverty and reducing inequalities; Resilient communities.
- 4.3.2 There will be periodic reviews by Leeds City Council's Safer Leeds and West Yorkshire Police; and these reviews will ensure that the PSPO continue to be justified and meet the 'test' of:
- 4.3.3 Behaviour being restricted has to:
- be having, or be likely to have, a detrimental effect on the quality of life of those in the locality;
 - be persistent or continuing nature; and
 - be unreasonable.

4.4 Resources and value for money

- 4.4.1 Regulations set out additional requirements regarding the publication of PSPOs that have been made, stipulating that these must be:
- published on the local authority's website
 - erected on or adjacent to the place the Order relates to, and is sufficient to draw attention, setting out the effect of the Order and whether it has been made, varied or extended.
- 4.4.2 Leeds City Council has accounted for this PSPO with 20 Signs each at a cost of £45 each; therefore the total cost is £1,080 (plus VAT as applicable).
- 4.4.3 A comprehensive list is required for the streets which is to include street names and postal codes along with lamp column numbers to which signage will be affixed. It is anticipated that Communities staff will provide this.
- 4.4.4 Enforcement costs (in terms of patrolling the localities) will be met by existing Police staff. There will be a cost to Safer Leeds for Fixed Penalty Notices, and the

administration of those by Leeds City Council. It is not anticipated that Safer Leeds will be submitting many Court Applications and therefore those costs are likely to be relatively small.

- 4.4.5 Income is likely to be generated from the use of Fixed Penalty Notices and/ or Court Applications where there has been a non-compliance of the Public Space Protection Order. However as members of the public become more aware of the terms of a PSPO, this income might reasonably be expected to reduce.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 Leeds City Council's Legal Services have now reviewed the process and consultation findings.
- 4.5.2 PSPOs can be subject to 'Variation' by increasing or reducing the restricted area, by altering or removing a prohibition or requirement included in the Order; or by adding a new one.
- 4.5.3 PSPOs can be subject to 'Discharge'.
- 4.5.4 Safer Leeds has carried out extensive consultation with community safety partner agencies, Leeds City Ward Members, the Police and Crime Commissioner for West Yorkshire and community representatives and stakeholders; including that required by statute.
- 4.5.5 In accordance with regulations on publications PSPOs will be:
- published on the local authority's website
 - erected on or adjacent to the place the Order(s) relates to, and is sufficient to draw attention, setting out the effect of the Order.
- 4.5.6 These publicity requirements are regarded as a legal minimum and an additional range of publicity options will be included via Leeds City Council's Communities Team. This will include similar publicity methods as used in the public consultation such as the use of social media, press releases, contact with Ward Members, Town Councils Residents Associations etc, letter drops, information leaflets left at HUBS, and One Stop Centres etc.
- 4.5.7 This report is subject to call-in.

4.6 Human Rights, and Proportionality

- 4.6.1 The restriction imposed by the PSPO restricts the ability for people to associate with others and therefore engages the Article 8 Human Right regarding respect for private and family life, Article 10 regarding freedom of expression, and Article 11 regarding freedom of assembly and association. In actions taken for the prevention of disorder or crime it is lawful for the council to interfere with a person's Article 8, 10 and 11 rights as long as the action is proportionate.
- 4.6.2 The prohibition term has a wide interpretation so that it may cover the full range of anti-social behaviour which the residents of the residential estate are to be protected against. The wording and scope of this term is in line with the legislation and case law relating to anti-social behaviour matters.
- 4.6.3 The Council is ultimately responsible for any decision to enforce and the Council's prosecution team is bound by the Crown Prosecutors Code. There are sufficient safeguards to ensure that inappropriate interpretations of the term do not lead to prosecutions.

4.6.4 Considering the levels of disorder, crime and anti-social behaviour to be targeted by the PSPO, and the safeguards against inappropriate prosecutions, the interference of persons' Article rights by the imposition of the PSPO is considered proportionate and lawful.

4.7 Risk Management

4.7.5 The Anti-Social Behaviour, Crime and Policing Act 2014 provides:

4.7.6 An interested person may apply to the High Court to question the validity of—

- a public spaces protection order, or
- a variation of a public spaces protection order
- “Interested person” means an individual who lives in the restricted area or who regularly works in or visits that area.

4.7.7 The grounds on which an application under this section may be made are—

- that the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied);
- that a requirement under this Chapter was not complied with in relation to the order or variation

4.7.8 An application under this section must be made within the period of 6 weeks beginning with the date on which the order or variation is made.

4.7.9 On an application under this section the High Court may by order suspend the operation of the order or variation, or any of the prohibitions or requirements imposed by the order (or by the order as varied), until the final determination of the proceedings.

4.7.10 If on an application under this section the High Court is satisfied that—

- the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied), or
- the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement under this Chapter, the Court may quash the order or variation, or any of the prohibitions or requirements imposed by the order (or by the order as varied)

4.7.11 A public spaces protection order, or any of the prohibitions or requirements imposed by the order (or by the order as varied), may be suspended under subsection (4) or quashed under subsection (5)—

- generally, or
- so far as necessary for the protection of the interests of the applicant

4.7.12 An interested person may not challenge the validity of a public spaces protection order, or of a variation of a public spaces protection order, in any legal proceedings (either before or after it is made) except—

- under this section, or
- under subsection (3) of section 67 (where the interested person is charged with an offence under that section)

5 Conclusions

- 5.1 The Council is being asked to formerly approve the recommendation to make a Public Space Protection Orders for an area of Harehills centred on the Nowells estate, based on the behaviours indicated and the respective geographical 'exclusion zone' area.
- 5.2 The Council is being asked to note that if further evidence is provided which is relevant to the effectiveness of this order, then the matter may be brought back to them, subject to the necessary evidence and consultation, for the order to be reviewed or varied or an additional PSPO be put in place as appropriate.

6 Recommendations

- 6.3 The Director of Communities and Environments to approve this request for the PSPO as part of his delegated decision authority.
- 6.4 The Director of Communities and Environments is advised that it is anticipated that PSPO will come into force not before 6th September 2018.
- 6.5 That the Head of Operational Delivery ASB, Hate Crime & Security Services is the Officer responsible for implementation.

7 Background documents¹

- 7.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.