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

Report to Director of Communities and Environment

Date: 03 December 2019

Subject: Public Spaces Protection Order- North West Leeds

Are specific electoral wards affected?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, name(s) of ward(s): Headingley and Hyde Park, Weetwood, and Little London and Woodhouse	
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will the decision be open 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:	

Summary

1. Main issues

- This report supports both the Safer Leeds Executive report dated the 14 November 2019, and the associated Delegated Decision Notification (DDN) report.
- This report provides the Director of Communities and Environment with an overview of the requirement and need to approve this Public Spaces Protection Order.
- 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.

2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

- Our proposals for this PSPO support the priority as outlined in the Best Council Plan 2019/20 to 2020/21 -Tackling poverty and reducing inequalities ‘Safe Strong Communities.
 - Keeping people safe from harm, protecting the most vulnerable
 - Tackling crime and anti-social behaviour
 - Promoting community respect and resilience

3. Resource Implications

- 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.
- Leeds City Council has ascertained that this PSPO will require a total of 80 signs at a cost of £45 each; therefore the total cost is £3600.00.
- 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.
- 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.

Recommendations

- a) The Director of Communities and Environment to approve this request for this PSPO as part of his delegated decision authority.
- b) The Director of Communities and Environment is advised that it is anticipated that the PSPO will come into force not before 28 January 2020.
- c) 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 14 November 2019, following the Safer Leeds Executive decision made on 14 November 2019 to agree in principle the proposals for this PSPO in North West Leeds.

2. Background information

- 2.1 The Safer Leeds Executive report dated 14 November 2019, 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 Spaces Protection Order (PSPO) for an area of North West Leeds, and this will have a duration of three years. This PSPO will cover an area within the Inner North West Leeds community committee area, comprising of Headingley and Hyde Park, Weetwood, and Little London and Woodhouse council ward.
- 3.2 There are currently three existing PSPOs with terms relating to on street alcohol consumption in place; and this proposal is to expand and merge the current ‘restricted areas’, and provide additional terms to reflect additional ‘detrimental’ behaviours.
- 3.3 This Public Spaces Protection Order is proposed as part of a range of measures to tackle serious anti-social behaviour, nuisance and disorder, and environmental issues within the ‘restricted area’.
- 3.4 The ‘restricted area’ covers a wide range of mixed tenure, residential and commercial properties as well as some green space. There are a large proportion of privately rented dwellings in the area which are rented to the student sector, as well as a large number of owned or rented properties inhabited by “settled residents.”
- 3.5 In terms of commercial properties, there is a sports stadium, a purpose built shopping centre (The Arndale Centre), a cinema, a number of parades which house a variety of retail outlets ranging from tech goods, to café bars. There are also a large number of licensed premises within this area serving alcohol and this ranges from traditional public houses, to café bars, restaurants and off licenses and convenience store/supermarkets.
- 3.6 There is a Cumulative Impact Assessment Area in operation to limit the number of new licensed premises serving alcohol.
- 3.7 Leeds Anti-Social Behaviour Team receive high levels of ‘noise nuisance’ and anti-social behaviour complaints in the ‘restricted area’ and this PSPO will be an additional ‘tool’ to help resolve those issues. Leeds Anti-Social Behaviour Team and West Yorkshire Police currently use anti-social behaviour powers as conferred by the Anti-Social Behaviour, Crime Policing Act 2014; and this includes Injunctions, Dispersals, Closures, and Community Protection powers, in addition to powers conferred by the Environmental Protection Act 1990.
- 3.8 It is anticipated that associated proactive publicity and education around the terms of the Public Spaces Protection Order will set some “ground rules” outlining what is not acceptable in the ‘restricted area’. Statutory notification publicity will be both generic web based, and ‘focused’ in areas where it may have the most impact i.e. via partner agency and third sector groups representing residents, local businesses, local educational facilities including universities etc. This Public Spaces Protection Order is designed to discourage people from acting or engaging in nuisance behaviour; and it is further anticipated that community cohesion will be enhanced following proactive use of Public Spaces Protection Order publicity and powers.

3.9 Leeds Anti-Social Behaviour Team and West Yorkshire Police will continue to work with support and diversionary agencies and other agencies within established multi agency crime reduction partnerships; and these include the Leeds Universities and Colleges Crime Reduction Partnership, and the Inner North West Partnership Working Area.

3.10 The Cleaner Neighbourhoods Team has shown context in their report to Safer Leeds of the detrimental effect of household waste in this proposed PSPO area. The PSPO is designed to work alongside other behaviour change and education initiatives rather than just act as an enforcement process

3.11 Safer Leeds, Leeds Anti-Social Behaviour Team, West Yorkshire Police, and the Cleaner Neighbourhoods Team have agreed the proposed terms and the PSPO ‘restricted area’; and equally these have been agreed with all nine Ward Members. This proposed Public Spaces Protection Order benefits from cross party political support. The ‘restricted area’ has been subject to some amendments following the statutory PSPO consultation process.

3.12 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 effect on the quality of life of those in the locality;
- Be persistent or continuing in nature; and
- Be unreasonable
- Justify the restrictions imposed

3.13 Safer Leeds has considered evidence and anecdotal supporting information and is satisfied that the test has been met.

3.14 The detrimental behaviours which this Public Spaces Protection Order aims to tackle are:

- Large scale parties in street/ noise nuisance
- Alcohol
- Psychoactive substances
- ASB/ criminality
- Household waste

3.15 Terms around ‘household waste’ reflect environmental issues in North West Leeds; and these terms are agreed following similar terms and interventions by the Cleaner Neighbourhoods Team in Harehills and Armley.

3.16 The terms of the North West Leeds PSPO are:

- Person(s) within the ‘restricted area’ will not: engage, promote, encourage, or assist in carrying out a street party causing amplified music or other noise in a public space, and which is likely to have a detrimental effect on the quality of life of those in the locality, and is or likely to be, of a persistent or continuing nature, or is, or is

likely to be, such as to make the activities unreasonable; and this term will override any exemptions as conferred by virtue of the Highways Act 1980 and/ or the Licensing Act 2003.

- Person(s) within the ‘restricted area’ will not: be in groups of two or more and engage in anti-social behaviour likely to cause alarm, harassment or distress to any other person in a public space.
- Person(s) within the ‘restricted area’ will not: consume alcohol, or be in possession of an open container of alcohol in a public space.
- Person(s) within the ‘restricted area’ will not: ingest, inhale, inject, smoke or otherwise use intoxicating substances in a public space.
- Intoxicating Substances is given the following definition which includes alcohol and Psychoactive Substances i.e. substances with the capacity to stimulate or depress the central nervous system.
- Exemptions shall apply in cases where the substances are used for a valid and demonstrable medicinal use, given to an animal as a medicinal remedy, are cigarettes (tobacco) or vaporisers or are food stuffs regulated by food health and safety legislation or for the avoidance of doubt the consumption of alcohol is on premises or public space licensed under the Licensing Act 2003, or where the consumption of alcohol is authorised by virtue of section 115E of the Highways Act 1980.
- Persons within this area who breach this prohibition shall (with the exemption of the matters referred to in Paragraph 6 above): surrender in accordance with the requirements under section 63(2) intoxicating substances in his/her possession to an authorised person and the authorised person is thereafter authorised to dispose of any item under section 63(5) of the Act.
- An authorised person could be a Police Constable, Police Community Support Officer or Council Officer, and must be able to present their authority upon request.

- **Requirements relating to Household Waste:**

- This section of the Order applies to all persons in a position to control residential premises (referred to as “the relevant person”) located within the specified area, (all such premises referred to hereafter as “relevant premises”). For the purposes of this order relevant person means any person residing in, whether permanently or temporarily, by legal right or simple occupation, at any premises situated in the specified area, and also any owner or managing agent of any premises let on a periodically tenancy and situated within the specified area.
- Each relevant person is required to ensure that all household waste stored at relevant premises and / or presented or to be presented for collection from relevant premises shall be contained in receptacles and not be situated outside the boundary of the relevant premises other than after 6pm the night before collection is due, and returned inside the boundary of the relevant premises no later than 9pm on the day of collection.

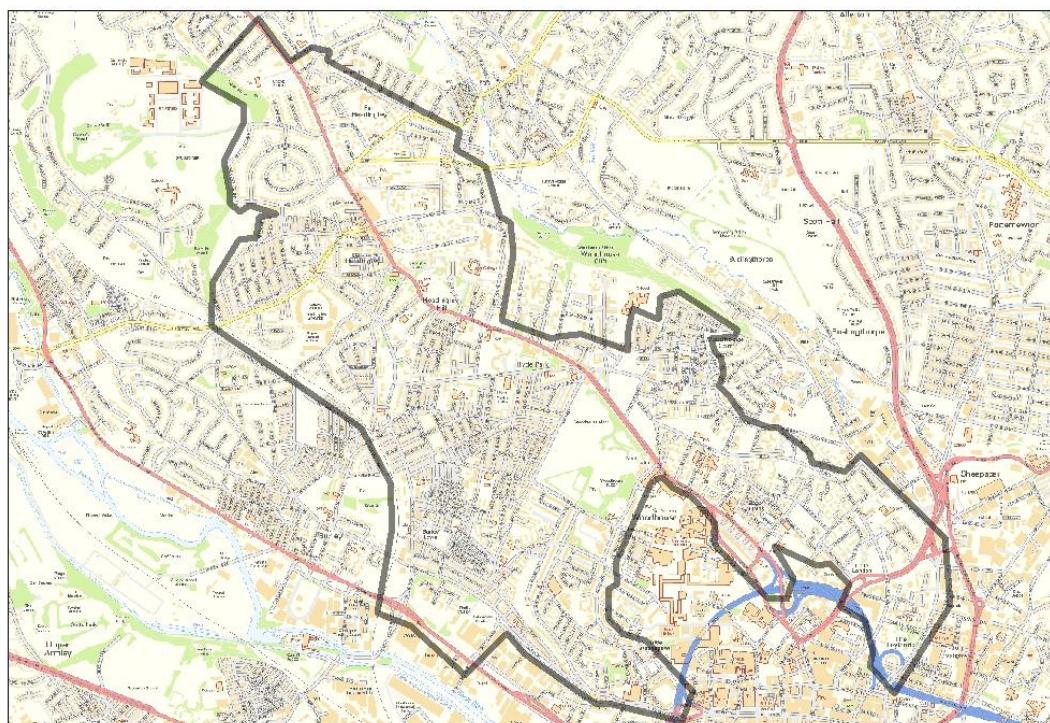
- Each relevant person shall have an equal and separate responsibility in relation to the requirement at (6) above, whether physically present at the relevant premises at the relevant time or not.
- No person shall be guilty of an offence under this Order if that person demonstrates that he or she has taken all such steps as were reasonably available to that person to secure compliance, provided that proof of the same shall lie with that person.
- An authorised person could be a Police Constable, Police Community Support Officer or Council Officer, and must be able to present their authority upon request.

3.17 These terms were agreed by Legal Services as an appropriate response to the detrimental behaviours this proposed PSPO aims to tackle.

3.18 These terms were outlined during the statutory PSPO consultation process.

3.19 During the statutory PSPO consultation a number of stakeholders requested boundary changes, and Safer Leeds has agreed an amended 'restricted area' which reflects feedback, operational priorities and capacity to manage:

Leeds North West PSPO Boundary



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4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Safer Leeds has carried out extensive engagement and consultation with community safety partner agencies, Leeds City Council Ward Members, West Yorkshire Police (including the Chief Superintendent), the Police and Crime Commissioner, Leeds Chamber of Commerce, and community representatives and stakeholders; including that required by statute. A number of educational groups have been included within this consultation including Leeds University, Leeds Becket University, Leeds College of Music and Leeds Trinity University. This consultation is outlined in the Safer Leeds Executive report dated 14 November 2019.
- 4.1.2 Consultation has been carried out with Local Ward Members and the PSPO is supported.
- 4.1.3 Police and Crime Commissioner – Consultation has been carried out with Commissioner Mark Burns-Williamson and the PSPO is supported.
- 4.1.4 Leeds City Council's Communities Team has been consulted with.
- 4.1.5 Resident groups have advised agencies and Ward Members of concerns around general anti-social behaviour, noise nuisance, and environmental issues.
- 4.1.6 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, West Yorkshire Police and the Cleaner Neighbourhoods Team have consulted widely.
- 4.1.7 The public consultation survey generated a response from 430 respondents with a direct connection to the locality.
- To support an understanding of community concerns each prohibition was separately consulted upon within the survey. Each prohibition was supported by over 80% of respondents, with the greatest support for the prohibition connected to waste
- 4.1.8 The statutory consultation survey was web based and this commenced on Monday 14th October 2019 and ran until Sunday 3rd November 2019. The consultation was publicised using social media, and through local initiatives by Leeds City Council staff. LCC staff also distributed hard copy/ paper surveys where appropriate. In addition to the survey, some letters were received from community groups or organisations, and these were incorporated within the Safer Leeds Executive report dated 14 November 2019.
- 4.1.9 Leeds City Council and West Yorkshire Police shared the consultation via twitter:
- @_YourCommunity – LCC Communities Team

- @LeedsCC_News – LCC news account
- @SaferLeeds – LCC Safer Leeds account
- @HeadingleyHEART – Headingley Heart Centre
- @HDTHeadingley – Headingley development Trust
- @HeadingleyCHub – Headingley Community Hub
- @HydeParkSource – Community page
- @WYP_LeedsNW - North West Leeds Policing team

4.1.10 Leeds City Council shared the consultation via Facebook with LCC service areas and third sector groups.

4.1.11 Cleaner Neighbourhoods Team consulted with:

- Leeds Rugby at Headingley Stadium
- Yorkshire County Cricket at Headingley Stadium
- Headingley Development Trust
- Ash Road Area Residents Association
- Little Woodhouse Community Association

4.1.12 Leeds Anti-Social Behaviour Team visited/ consulted with:

- Brudenell Social Club, Queens Road
- Abu Bakr Supermarket, Queens Road
- Royal Park Pub, Queens Road
- Queens Road News, Queens Road
- Sainsbury Supermarket Royal Park Road
- Abode Lettings, Queens Road
- Hyde Park Picture House, Brudenell Road – manager to circulate details of the PSPO/consultation to ALL their email mailing list
- Popinas, Brudenell Road
- Brudenell Pharmacy, Brudenell Road
- Headingley Dental Care, Brudenell Road
- Zulfis, Brudenell Road
- Sainsbury Supermarket, Brudenell Road
- New Pin Shoe Repair, Brudenell Road
- Munch Mania, Brudenell Road
- Leeds Prime Properties, Brudenell Road
- Afterz, Queens Road
- Pitzacano, Queens Road
- Maxis, Queens Road
- Haus, Brudenell Road
- Tony's Cuts, Brudenell Road
- LS6 Dutch Fries, Brudenell Road
- Vapes & Phones, Brudenell Road
- Avtar (Lettings), Brudenell Road

- Makkah, Brudenell Road - discussed with staff, poster and info left
- Diamond Properties, Brudenell Road
- 116 hair and beauty, Brudenell road
- Lets Compare, Cardigan Road
- Apex Autocare, Cardigan Road
- Barbers Club, Cardigan Road
- Local Off Licence - Mayville Avenue
- West Yorkshire Police provided twitter and Facebook posts and consulted with:
- All Hallows Church, Hyde Park
- St Michaels Church, Headingley
- Salvation Army, Meanwood Road
- Swarthmore Centre
- Heart Centre, Headingley
- Headingley Methodist Church

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 Best Council Plan 2019/20 to 2020/21 -Tackling poverty and reducing inequalities 'Safe Strong Communities.

Climate Emergency

4.3.2 These proposals do not impact upon the climate agenda.

4.4 Resources, procurement and value for money

4.4.1 Resource implications are set out in the Summary. There is no procurement. These proposals offer value for money to Leeds City Council.

4.5 Legal implications, access to information, and call-in

4.5.1 Leeds City Council's Legal Services has reviewed the process and consultation findings prior to the governance process.

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, West Yorkshire Police, 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 facilitated via the use of social media, press releases, contact with Ward Members, Town Councils, universities, Residents Associations etc,
- 4.5.7 Leeds City Council is satisfied that the PSPO test has been met as outlined in the Anti-Social Behaviour, Crime and Policing Act 2014.
- 4.5.8 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.
- 4.5.9 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.
- 4.5.10 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.
- 4.5.11 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.
- 4.5.12 This report is subject to call-in.

4.6 Risk management

- 4.6.1 The Anti-Social Behaviour, Crime and Policing Act 2014 provides:
- 4.6.2 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.
- 4.6.3 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.
- 4.6.4 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.

- 4.6.5 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.
- 4.6.6 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).
- 4.6.7 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
- 4.6.8 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 Spaces Protection Orders for North West Leeds, based on the behaviours indicated and the respective geographical ‘restricted 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.
- 5.3 Decision making will be by a Key Decision and sign off will be by the Director of Communities and Environments as part of his delegated decision authority.

6. Recommendations

- 6.1 The Director of Communities and Environments to approve this request for the PSPO as part of his delegated decision authority.

6.2 The Director of Communities and Environments is advised that it is anticipated that PSPO will come into force not before 28 January 2020.

6.3 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.