

EXECUTIVE

14th July 2022

Report Title	Extension of the Public Spaces Protection Order - Kettering town centre
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Lead Member	Councillor Matthew Binley - Executive Member for Housing, Communities and Levelling Up

Key Decision	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for call-in by Scrutiny?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there public sector equality duty implications?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information (whether in appendices or not)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Applicable paragraph number/s for exemption from publication under Schedule 12A Local Government Act 1972	

List of Appendices

Appendix A – Draft Order: Public Spaces Protection Order – Kettering town centre with map illustrating designated area

Appendix B – Public Consultation (Myspace) findings

Appendix C – Equalities Screening Assessment

1. Purpose of Report

- 1.1. This report asks the Executive to consider and approve the extension of a Public Spaces Protection Order (PSPO) covering the town centre of Kettering.

2. Executive Summary

- 2.1. Public Spaces Protection Orders (PSPO) are made in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act). North Northamptonshire Council can make, amend and discharge PSPOs as it is a local authority defined by the Act. The Act also makes provisions for extending the period of a PSPO.

- 2.2. The PSPO in Kettering town centre has been in place since July 2016. It was extended by the former Kettering Borough Council in 2019 and will terminate in July 2022. The PSPO specifies certain prohibitions aimed at tackling anti-social behaviour, all of which are deemed to have a detrimental effect on the local community.
- 2.3. The range of prohibitions that can be included in PSPOs includes, but is not limited to alcohol consumption, rough sleeping, begging and dog fouling. The current Kettering PSPO has a prohibition to control skateboarding.
- 2.4. In line with the Act, comprehensive consultation has taken place with relevant stakeholders and interested persons regarding the extension of the PSPO. The findings have been reviewed and considered in the drafting of the order (PSPO). Responses to the consultation indicate strong feeling for removing the skateboarding prohibition and the requirements for under 18-year-olds to leave the prohibited area between the hours of 11pm and 6am.
- 2.5. There are provisions in the Council's Scheme of Delegation that cover the making, varying and discharging of PSPOs. However, the making or renewing of PSPOs, where issues of a controversial or sensitive nature have arisen from consultation exercises, would be considered by the Executive.
- 2.6. Enforcement is a critical function with PSPOs. All enforcement is undertaken in line with the Council's Corporate Enforcement Policy.

3. Recommendations

- 3.1 It is recommended that the Executive:
 - a) Approves an extension to the Public Spaces Protection Act (PSPO) for Kettering town centre, with the draft order set out at Appendix A.
- 3.2 Reason for Recommendations: To give authorised officers the ability to continue to use enforcement powers under the PSPO to respond to anti-social behaviour within Kettering town centre.
- 3.3 Alternative Options Considered:
 - a) Discontinue with the PSPO – this would have a negative impact on the ability to tackle activities in a public place that causes nuisance, crime and anti-social behaviour.
 - b) Extend the PSPO based on no changes to the current prohibitions – this would effectively ignore the issues and comments raised by the public and partner agencies as part of the consultation.

4. Report Background

- 4.1. PSPOs are widely regarded as useful tools in the prevention of anti-social behaviour in public spaces, town centres, parks and recreation grounds. The Council's Corporate Plan 2021-25 states its commitment to tackling the causes of difficult issues leading to nuisance, crime and anti-social behaviour.
- 4.2. In considering making a PSPO, the local authority must satisfy itself on reasonable grounds that two conditions are being met. Firstly,
- activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
 - it is likely that activities will be carried on in a public place within that area and that they will have such an effect
- and secondly is that the effect, or likely effect of the activities
- is, or is likely to be, of a persistent or continuing nature
 - is, or is likely to be, such as to make the activities unreasonable, and
 - justifies the restrictions imposed by the order.
- 4.3. The original PSPO for the town centre was made by the former Kettering Borough Council in July 2016, for a period of three years. The PSPO contained 10 prohibitions, which are:-
1. Consumption of Alcohol in the street
 2. Begging on the street
 3. Charity Collection without the council's permission
 4. Use of skateboards and misuse of bikes/ scooters in the specified area
 5. Foul and abusive language when causing offence
 6. Under 18's staying after a request to go by an authorised officer
 7. Loitering/ obstructing the highway
 8. Using a car in an anti-social manner
 9. Unauthorised distribution of leaflets
 10. Anti-social parking
- 4.4. The PSPO was then extended in 2019 without amendments to the 10 prohibitions. We are now approaching the end date of that extension period and the Executive is being asked to consider a renewal for a further three-year period. If it is not extended, the PSPO will automatically expire on 25th July 2022.
- 4.5. PSPOs require robust enforcement if they are to be effective. Several Council officers have delegated powers through the approved Scheme of Delegation to enforce the requirements in all PSPOs across North Northamptonshire, including dealing with breaches. Northamptonshire Police, as a significant community safety partner, delegate powers to their officers and Police Community Support Officers (PCSOs) to enforce PSPOs. Warranted Police Officers have a much wider range of other powers including dispersal and dealing with anti-social behaviour; however, a PSPO provides an effective tool

that can be used by non-Police Officers, providing they have the appropriate delegations to disperse people whose behaviour is in breach of the prohibitions.

- 4.6. Breach of a PSPO without reasonable excuse is a criminal offence. Breaches are dealt with initially by way of a Fixed Penalty Notice (FPN), which if paid discharges the liability to conviction for that offence. Formal prosecution in the Magistrates' Court can be instigated. All enforcement activity, including formal prosecution is undertaken in full accordance with our corporate Enforcement Policy.
- 4.7. Establishing the PSPO for Kettering town centre led to a notable reduction in the anti-social activities. Since the current extension was approved (2019) certain operational changes have been made to the warden service based in Kettering. The emphasis of their work has progressively moved to car park enforcement, which limited the overall enforcement of the PSPO by the former Kettering Borough Council and now by North Northamptonshire Council. However, there are opportunities to review this with the development of the Council's Safer Communities team.

5. Issues and Choices

- 5.1. Whether the local authority is making a brand new PSPO or extending an existing PSPO, it must ensure it meets the criteria set out in the Act and outlined in para 4.2 above. PSPOs cover a three-year period and unless the environment changes significantly, or an individual prohibition in the PSPO becomes much less relevant, a PSPO is unlikely to be amended during that three years.
- 5.2. When the end date for a PSPO is approaching, the local authority is expected to consider consulting with local people, residents, businesses and other key stakeholders on what should happen next. Generally, people want a PSPO to continue through an extension; however, they may have views as to whether certain prohibitions are still relevant, or whether there should be additional prohibitions in the next three-year period.
- 5.3. Responses from Kettering Town Council, Northamptonshire Police and Office of the Northamptonshire Police, Fire and Crime Commissioner (OPF&CC) all support the extension of the PSPO. However, all three indicate that they feel the skateboarding prohibition is unduly restrictive. Northamptonshire Police have confirmed they have not enforced against the skateboarding prohibition. Furthermore, the OPF&CC have raised their concerns about the prohibition concerning 'Under 18s staying in the specified area after being requested to leave by an authorised officer'. Their view is that this should be amended to cover every one of any age as the PSPO area is a significant part of the Night-Time Economy (NTE). It might also be too restrictive and discriminatory towards a certain age group.

- 5.4. A public consultation through Myspace was run from 5 May to 24 June. There were 233 responses to the consultation. Of those responses, 121 agreed with extending the PSPO for a further three years and 112 said they didn't agree with an extension. Consultees were then asked to indicate if there was anything they would like to see included in the PSPO that they felt was detrimental to the quality of life in the town centre. Most comments focused on drugs and alcohol and whether the skateboarding ban should continue or be removed. There was a greater number of comments in favour of removing the skateboarding ban than retaining it in the extended PSPO; however, some of those in favour of removing the ban expressed concern about the misuse of skateboards. The summary of consultation responses is set out at **Appendix B**.
- 5.5. Whilst it has been noted at 4.7 above, enforcement of the current PSPO has been limited. However, an initiative by Northants Police entitled Operation Napery was introduced in response to an increase in ASB and associated crime factors such as harassment and public order. Part of the initiative used police powers under the act to deal with the behaviour of individuals committing ASB or on the periphery of such behaviour, most with out of court disposals working closely with the Youth Offending Service (YOS). Although police-led, the initiative was aligned to the PSPO prohibitions and the legislation set out in the act. As a result of the initiative, the ASB reduced.
- 5.6. Northamptonshire Police also report that the local policing team in the town centre regularly retrieve and remove open alcohol vessels from street drinkers associated to ASB in the town. This is seen as an intervention aimed at preventing ASB from taking place. If the town centre PSPO was not in place, the Council and the wider Community Safety Partnership would be without an effective tool to persuade individuals to amend their behaviour. The enforcement and support elements of our approach need to work hand in hand and this will be a key factor in our development of the NNC Safer Communities team.

6. Next Steps

- 6.1. On approval by the Executive, the PSPO extension will be created and implemented as recommended and run July 2022 to July 2025.

7. Implications (including financial implications)

7.1. Resources, Financial and Transformation

- 7.1.1. No additional resource or finance is required to implement the proposals. Provisions exist within the 2022/23 community safety budgets for updating signage to reflect the prohibitions to be included in the PSPO extension, the restrictions it imposes in the area it covers and the action that will be taken against people who breach it.

7.1.2. Any fines from Fixed Penalty Notices are recovered by the Council and contribute to our income.

7.2. Legal and Governance

7.2.1 As referred to earlier in this report, PSPOs are made in accordance with sections 59 to 75 of the Anti-Social Behaviour, Crime and Policing Act 2014. The existing PSPO will naturally expire at the end of its three-year authorisation unless renewed by the Council.

7.2.2 The Council's Scheme of Delegation (Constitution part 9.2 refers) designates the Executive Director of Place and Economy to exercise the Council's powers under the Anti-Social Behaviour, Crime and Policing Act 2014. This excludes the making of PSPOs, which shall be determined by the Assistant Director for Regulatory Services unless they are likely to be considered to be sensitive or significant, in which case they shall be determined by the Executive.

7.2.3 Under the Scheme of Delegation, the Executive Director of Place and Economy has delegated relevant and appropriate officers with the power to enforce PSPOs across the North Northamptonshire area.

7.2.4 The renewal of the Kettering PSPO has attracted sensitive feedback from the public consultation process. In consultation with the Assistant Director for Regulatory Services and the Council's Legal Services team, it has been determined that this PSPO renewal requires consideration by the Executive.

7.3. Relevant Policies and Plans

7.3.1 The PSPO in Kettering town centre supports the following policies and plans:-

- **Corporate Plan 2022-25:** tackling the causes of difficult issues leading to nuisance, crime and anti-social behaviour. The PSPO and the enforcement of it will demonstrate our commitment to act against those who cause nuisance and harassment to others in public spaces.
- **North Northants Community Safety Plan 2022-25:** this is the plan of the North Northants Community Safety Partnership. Partners will jointly tackle the root causes of anti-social behaviour.

7.3.2 Enforcement of the PSPO is undertaken in full accordance with NNC's Corporate Enforcement Policy.

7.4. Risk

7.4.1. The main risk associated with PSPOs is an inability to enforce effectively. As already identified, NNC and the neighbourhood policing teams have the power to enforce the PSPO prohibitions.

7.4.2. The creation of a new NNC safer communities service is underway, and this provides a good opportunity to review how we enforce PSPOs across the area in conjunction with other NNC services and Northants Police.

7.5. Consultation

7.5.1 The consultation on the renewal of the PSPO ended 24th June 2022. The key components of the consultation were:-

- Considerations by Kettering Town Council.
- Considerations by Northants Police.
- Considerations by Office of Northamptonshire Police, Fire and Crime Commissioner.
- The views of local businesses, shops and retailers in the town centre.
- Public consultation via North Northamptonshire's Citizen Space Hub and social media channels e.g. twitter.

7.5.1 Analysis of the consultation findings via Citizen Space Hub is set out at **Appendix B**.

7.6. Consideration by Executive Advisory Panel

7.6.1. This report was taken to the Executive Advisory Panel for Service Delivery, Performance and Customers at its meeting 29th June 2022.

7.6.2. EAP noted the importance of the PSPO and the responses received from Northants Police, Office of the Police, Fire and Crime Commissioner and Kettering Town Council. Members of the panel made the following recommendations for consideration by the Executive:-

1. The removal of the prohibited areas covering Morrisons Supermarket.
2. Amendment of the prohibition: *Use of skateboards and misuse of bikes/ scooters in the specified area to the misuse of skateboards, bikes and scooters in the specified area.*
3. Amendment of the prohibition: *Under 18's staying after a request to go by an authorised officer* so that it covers persons of all ages not just under 18s.

7.6.3. Consultation with the management of Morrisons Supermarket in Kettering indicates that they wish for their site to remain part of the PSPO area. The amendments relating to the use of skateboards and under 18s, listed above are in line with the proposals set out in this report.

7.7. Consideration by Scrutiny

7.7.1. Scrutiny has not considered the proposals at this stage.

7.8. Equality Implications

- 7.8.1. An Equalities Screening Assessment has been completed for the PSPO extension in consultation with the Council's Equalities team and is appended to the report at **Appendix C**. This demonstrates that the PSPO has the potential for only positive and neutral impacts on identified equality groups, based on the proposed amendments.
- 7.8.2. A full Equalities Impact Assessment will be required should the Executive wish to retain the skateboarding and removal of under 18s as prohibitions in the PSPO 2022-25.

7.9. Climate Impact

- 7.9.1. There are no specific climate issues or impacts arising from the recommendations.

7.10. Community Impact

- 7.10.1 The PSPO will be instrumental in tackling anti-social behaviour in Kettering town centre. Anti-social behaviour can cause people harassment and distress and some activities prohibited by a PSPO can also be dangerous.

7.11. Crime and Disorder Impact

- 7.11.1 A PSPO aims to reduce crime and disorder by tackling anti-social behaviour. The presence of a PSPO is widely regarded as a good and effective deterrent to those intent on committing ASB. Failing to comply with the requirements of the PSPO can lead to enforcement action as described above.

8. Background Papers

- Anti-social Behaviour, Crime and Policing Act 2014
- Police and Criminal Evidence Act
- Crime and Disorder Act 1998