

Committee Name and Date of Committee Meeting

Cabinet – 18 March 2019

Report Title

Proposed Public Space Protection Order – Fitzwilliam Road, Rotherham East

Is this a Key Decision and has it been included on the Forward Plan?

No, but it has been included on the Forward Plan

Strategic Director Approving Submission of the Report

Paul Woodcock, Acting Strategic Director of Regeneration and Environment

Report Author(s)

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Ward(s) Affected

Rotherham East

Report Summary

This report introduces a potential Public Space Protection Order for the area surrounding Fitzwilliam Road, within Rotherham East, as a part of the Eastwood Deal. This report details the evidence available to support potential implementation, alongside a proposed process to meet the legal requirement in relation to due process, including statutory consultation.

Recommendations

1. That approval be given for a consultation be carried out proposing a Public Space Protection order based on the conditions contained in this report and specifically section 3.
2. That Cabinet receive a further report in June 2019, which considers the outcomes and conclusions drawn from the consultation alongside the evidence referenced in this report and completed equality impact assessment, for a final decision to be made.

List of Appendices Included

Appendix A Draft Order

Appendix B Equality Impact Assessment

Background Papers

[Anti-Social Behaviour Crime and Policing Act 2014](#)

[Statutory Guidance – Anti-Social Behaviour Crime and Policing Act](#)

Consideration by any other Council Committee, Scrutiny or Advisory Panel
Overview and Scrutiny Management Board – 30 January 2019

Council Approval Required

No

Exempt from the Press and Public

No

Proposed Public Space Protection Order – Fitzwilliam Road, Rotherham East

1. Background

- 1.1 Powers introduced by the Anti-Social Behaviour, Crime and Policing Act 2014 created the provision for local authorities to implement Public Space Protection Orders (PSPOs). These orders are designed to address anti-social behaviour in local areas and are therefore adaptable to meet local need. This means that prohibitions or requirements can be made at a local level in response to complaints from a range of sources including the public, business and Councillors. Breach of a prohibition, or requirement contained within a PSPO, becomes a criminal offence and offenders are liable to a fixed penalty notice or prosecution through the Magistrates court.

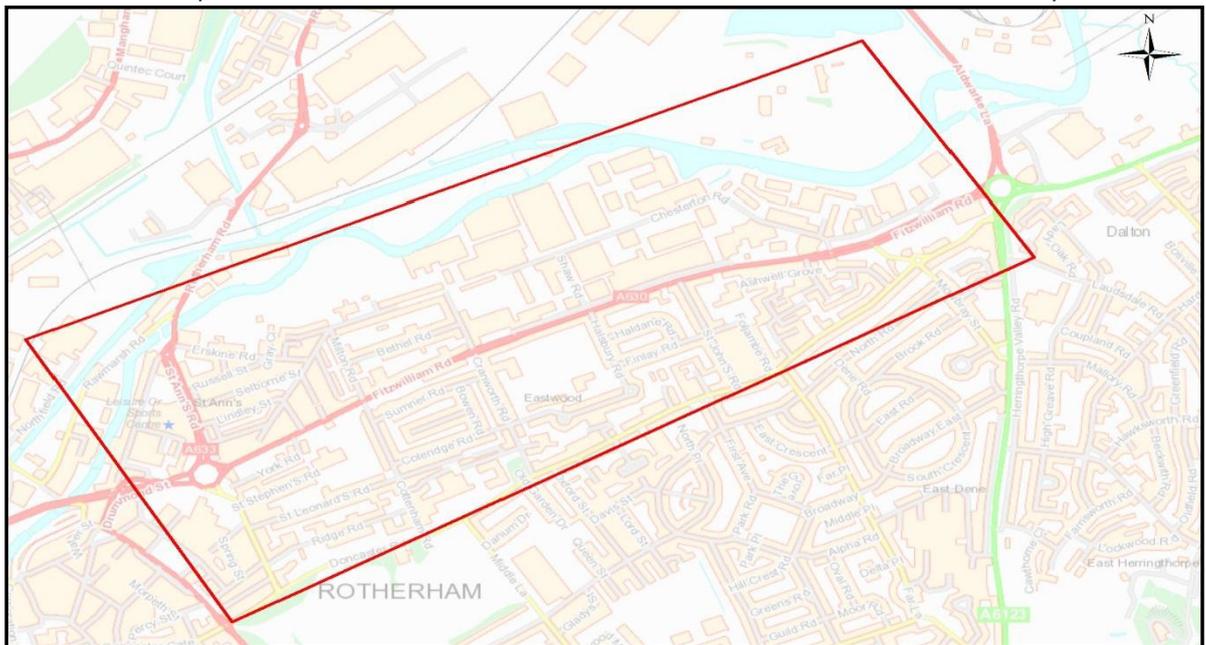
2. Key Issues

Introduction

- 2.1 The current version of the Eastwood Deal has been in effect since November 2018. The deal itself has delivered a range of improvements including enhanced community engagement, joint patrols and a broad range of enforcement activity. Some of the success to date is demonstrated in the reductions detailed within this report. One of the clear objectives within the deal relates to effective response to Anti-Social Behaviour (ASB) and Crime, alongside an objective around providing an effective response to Environmental issues.
- 2.2 This report proposes the following areas for consideration within a PSPO for the Fitzwilliam Road area, as a result of reports, anecdotal information, public and officer feedback in the area:
- Restrictions on alcohol
 - Restriction on use of foul and abusive language
 - Vehicle nuisance
 - Requirements around maintaining gardens in a condition that does not impact on the quality of life of those in the locality
 - Restricted access to open spaces/ groups of people at certain times (Eldon Rd fields, Pocket Park)
 - On-street noise that is likely to cause a disturbanceExcessive Noise emanating from properties
 - Requirement for business to maintain a tidy curtilage

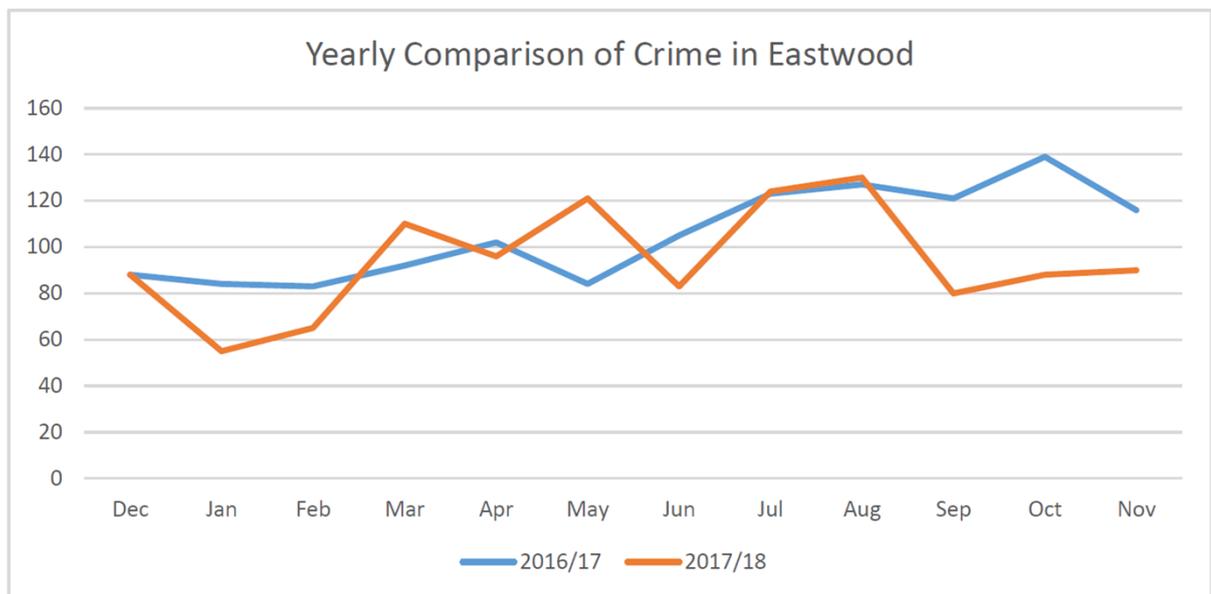
General Evidence

- 2.3 In general, crime has been decreasing in the Fitzwilliam Road area, which is defined by the following map:

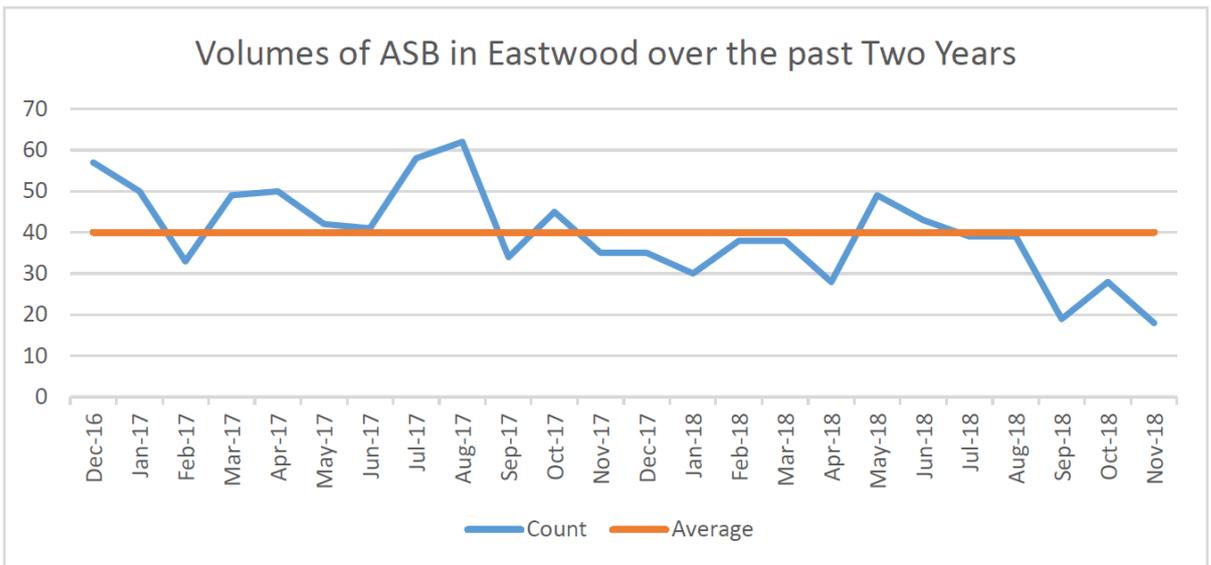


2.4 This area was utilised in order to ensure any concerns in relation to displacement were properly considered and additionally, to allow a sensible boundary to be developed.

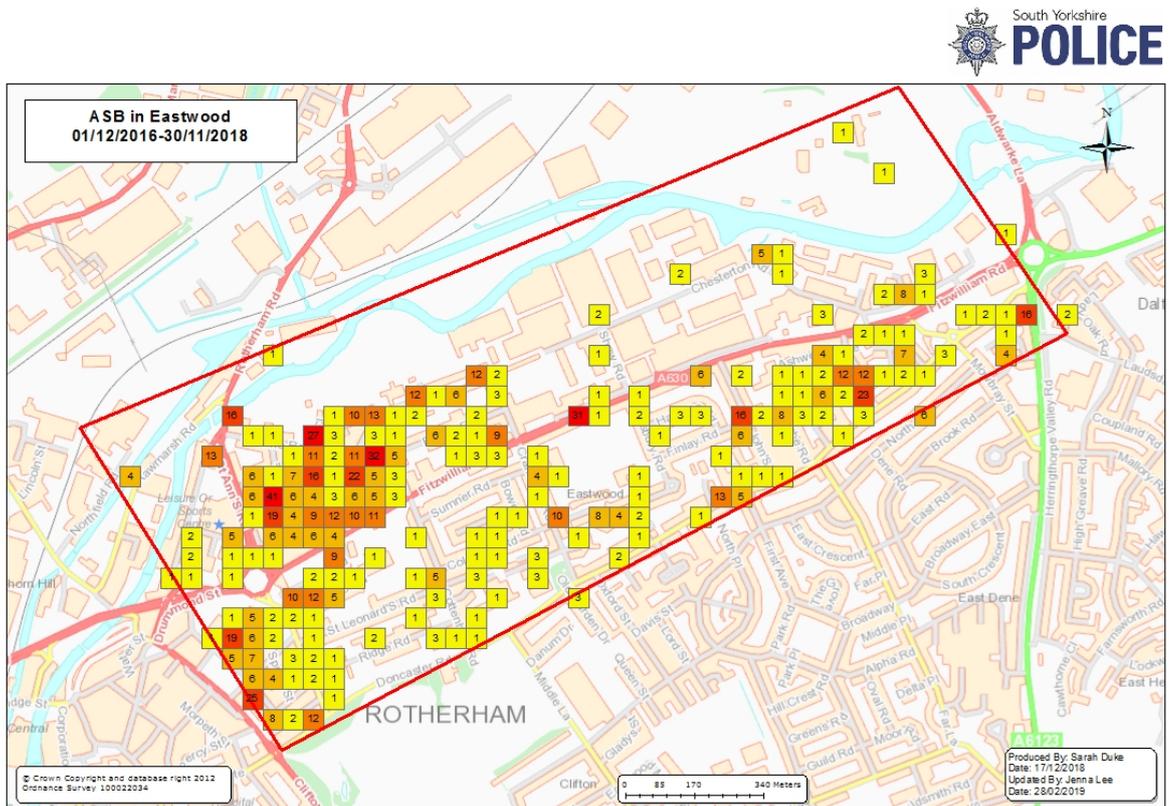
2.5 Within this area, reported crime has steadily decreased this year, compared to last, as shown by the chart below, with the orange line indicating the current year. Despite the decrease, Rotherham East still had high levels of crime reported in comparison to other wards within the Rotherham area.

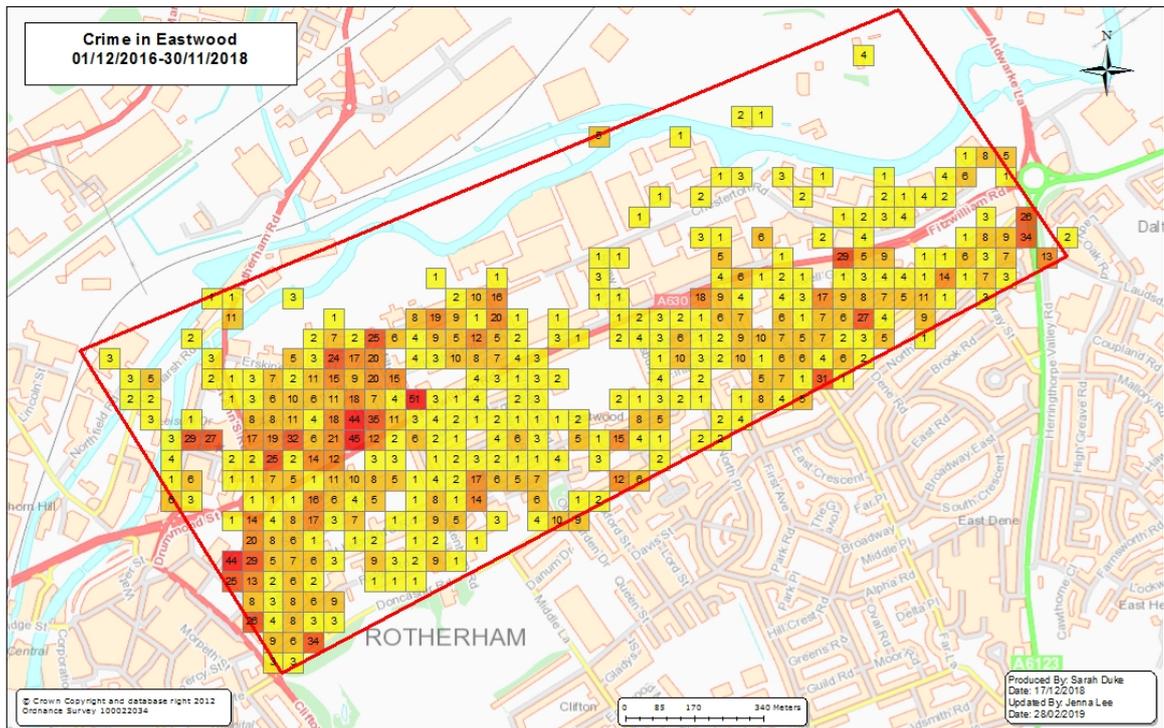


2.6 In relation to Anti-Social Behaviour (ASB) again the picture is illustrated by the chart below. The orange line shows the monthly average and, as can be seen, a number of months have recently had levels of ASB recorded below the monthly average.



2.7 There are clear hotspot areas for both crime and ASB and they are relatively consistent, as follows:





2.8 Whilst the above maps clearly demonstrate hotspot areas within the area known as Eastwood Village, the peaks in areas outside of the Village, alongside the spread of amber areas on the map, demonstrates a risk of displacement of issues in the event of an order being made on a narrow geographical boundary; Eastwood Village alone, for example. It is this risk and the spread of hot spot areas that has led to the boundaries of the proposed order, shown in sec 3.3. The boundary towards St Anne’s Road is also coterminous with the town centre PSPO, further reducing the risk of displacement.

Condition Specific Evidence

2.9 Restrictions on alcohol

In relation to alcohol use, specific searches were conducted and the findings analysed. Evidence from Police systems to support this condition is limited as officers are not required to enter aggravating information, such as intoxication, to ASB incidents. In relation to crime, 35 of the crimes committed in the current year had alcohol flagged. 12 ASB incidents were similarly flagged with an alcohol marker. This represents a small percentage of the overall levels.

Also relevant to this category however are ASB incidents linked to rowdy/inconsiderate behaviour. Such incidents can often involve intoxication, though clearly not exclusively. 39% of the recorded ASB was categorised as rowdy/inconsiderate behaviour, which represents a significant proportion.

Finally, in a recent survey conducted in October in the Eastwood area, which received 56 responses, 3 respondents mentioned phrases relating to alcohol being a problem in the area.

2.10 Restriction on use of foul and abusive language

Again, rowdy and inconsiderate behaviour suggests links to foul or abusive language. Beyond this data, there is no specific crime or incident category that would capture this information. Anecdotal feedback does consistently suggest this as a problem in the area and this has been witnessed by officers. Many of the responses to the survey, referenced above, mention noise in the evening, shouting and fighting but not specifically reference foul and abusive language.

2.11 Vehicle Nuisance

There were 91 incidents relating to vehicle nuisance in the area. This is significantly higher than other areas close by such as the town centre, which recorded two a month on average in comparison to 7.5 in Eastwood. This issue is also backed up by the survey, again referenced above, where several young people referenced the issue. Anecdotal feedback suggests that this is linked to speeding as opposed to nuisance when stationary and this would need to be further explored through the consultation to ensure any conditions would be framed to correctly address the behaviour causing concern.

2.12 Requirement to maintain gardens in a condition so as not to impact on the quality of life in the local area

Whilst many areas of ASB have seen a decrease, untidy gardens have steadily increased by around 9% in this area over the previous four years, as can be seen from the table below;

	2014/15	2015/16	2016/17	2017/18	4 year change
Eastwood Village	129	109	138	141	9%

Additional enforcement work targeted in this area during June and July 2018 identified an additional 82 accumulations in gardens to be addressed through statutory powers. There is a potential preventative benefit which could be achieved through use of a PSPO and the power is suggested to apply to the occupant at that time which if vacant, would be the landlord.

2.13 Noise that is likely to cause a disturbance

Within the analysis of Police incidents, ten hotspot streets were identified which accounted for 453 incidents. All of these referenced noise and rowdy/inconsiderate behaviour as significant categories accounting for the high demand. At the same time, Council data in relation to noise from properties suggests a reduction over the previous four years of 24%. This potentially suggests that the sources of the noise are on the street.

2.14 Requirement for business to maintain a tidy curtilage

A number of visits to the area by a range of officers and Councillors have noticed build ups of waste, often around businesses within the area. One such business is subject to a Community Protection Notice as a result of these issues. Again there is no specific category for reporting so hard data is difficult to come by. The Council has however needed to increase resource in this area to maintain it in a clean and tidy condition.

3. Options considered and recommended proposal

3.1 Conditions Considered, Rationale and Recommendations

Based on the evidence above, the following recommendations are made in relation to the conditions to progress to formal consultation, for the consideration of Cabinet:

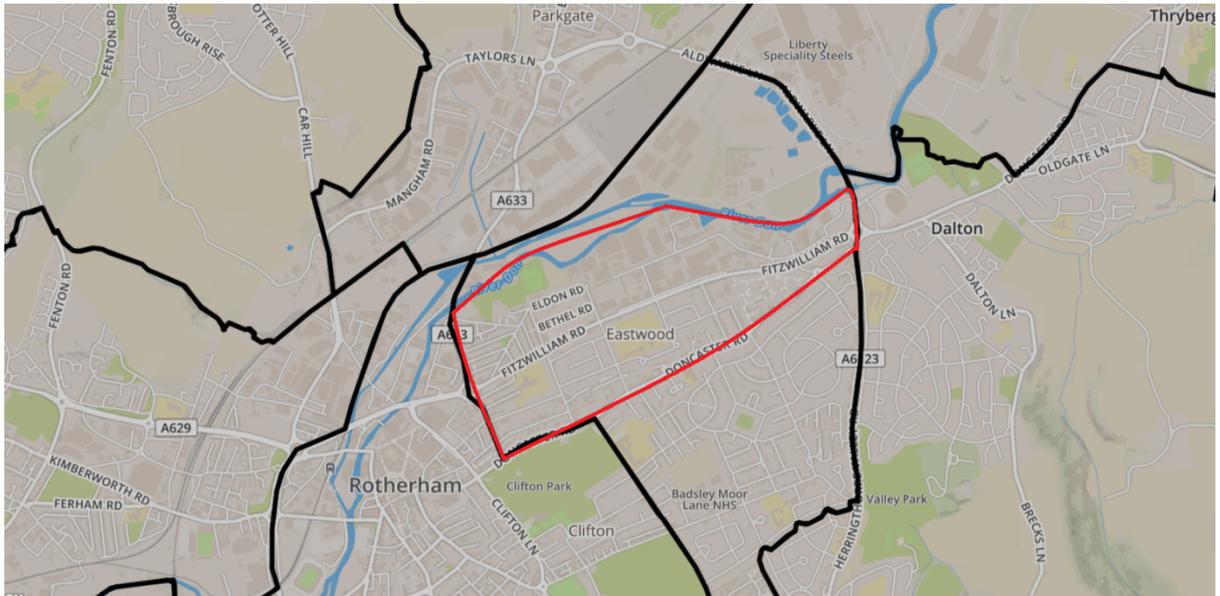
Condition	Recommendation	Rationale
Restrictions on alcohol	Proceed to consultation	Whilst there isn't a specific offence category and nor is it a required field for recorded purposes for other offences, there is clearly a level of alcohol use on the streets and this may be contributing to issues linked to rowdy/inconsiderate behaviour.
Restriction on use of foul and abusive language	Proceed to consultation	There is no specific offence category but similarly, the high levels of rowdy and inconsiderate behaviour suggests that further power to control foul and abusive language may assist officers in addressing ASB.
Vehicle nuisance	Proceed to consultation	There is clearly evidence of local residents being aggrieved by nuisance use of vehicles, which is reflected in high levels of reporting.
Allowing or causing the accumulation of waste, refuse, furniture and/or appliances in gardens	Proceed to consultation	There is clear evidence that, in spite of reductions across most other areas, these issues persist and increase. A PSPO may provide an early and preventative opportunity whilst also setting the standards in the area. This would not take the place of statutory powers, which will still be used where necessary.

Condition	Recommendation	Rationale
Causing or creating noise that is likely to have an impact on the quality of life of those in the locality	Proceed to consultation	The levels of rowdy and inconsiderate behaviour and mentions of shouting/noise/foul and abusive language within the survey returns suggest that there is a problem with on street noise. Currently there are no powers available to address this. Statutory nuisance relates only to noise emanating from a property (and some other specific categories) and ASB powers relate to persistence, requiring repeated identification. Similarly, there may be benefits from allowing officers to take swifter action on all forms of noise, whether on the street or from buildings. A PSPO would again enable standards to be set and provide officers with the tools to address poor behaviour.
Requirement for business to maintain a tidy curtilage	Proceed to consultation	This is a clearly visible issue when attending the area, particularly in the summer months. Businesses in the area have been subject to action as a result of leaving business waste around the premises.

3.2 **Proposed Conditions**

A draft PSPO has been developed based on the above. This will be required should the decision be made to proceed to public consultation. The conditions have been formed in such a manner as to ensure they will be enforceable. The full draft order can be found attached as appendix A.

3.3 The proposed area is as per the area outline in red below. Bordered by the River Don, Doncaster Road, St Anne's Road and Aldwarke Lane.



4. Consultation on proposal

4.1 The Anti-Social Behaviour Crime and Policing Act 2014 supported by statutory guidance, requires a process of consultation with key stakeholders, such as the Police and the Police and Crime Commissioner, alongside interested groups, the public and residents in the area. In order for this type of consultation to be delivered, an outline timeline is presented below, subject to approval.

1 st April 2019	Launch Open Consultation (pre-prepared press release, social media and survey launch)
1 st April 2019	Launch partner/professional consultation
During the consultation:	<ul style="list-style-type: none"> • Weekly drop ins at various locations (CLP, Pocket Park, Unity Centre) • Paper surveys (translation support available through specific drop-ins) • Utilise Councillor and Police drop-ins
3 rd May 2019	Consultation closes.

4.2 Consideration should be given as to whether the overall decline in ASB and crime support the need to develop, consult and potentially implement a PSPO.

4.3 Should the levels identified be sufficient to warrant such activity, then the recommendations based on each potential condition in section 3.1 should be considered individually.

4.4 It should be noted that consultation and implementation would develop expectations within the local community. There are already challenges in terms of maintaining a presence in the area and responding to the current demand.

4.5 Failure to meet expectations created as a result of resource challenges will impact trust and confidence in both the Local Authority and the Police.

4.6 As with any legal process this activity carries a level of risk and officers will need to demonstrate legal compliance with the process throughout.

4.7 Some of the evidence is circumstantial and could be at risk of linking broad categories to specific issues.

5. Timetable and Accountability for Implementing this Decision

5.1 Following closure of the Consultation at the start of May 2019, a further Cabinet report will be prepared and presented in June 2019 for a final decision on whether to make an order.

6. Financial and Procurement Advice and Implications

6.1 The cost of the consultation will be managed within existing approved revenue budgets.

6.2 Subject to the outcome of this consultation exercise, the enforcement activities will be managed within existing staffing resources. This will be discussed in more detail in the report to Cabinet that presents the outcome of the consultation, prior to any implementation and enforcement.

7. Legal Advice and Implications

7.1 The purpose of introducing a PSPO is to deal with a particular nuisance or problem in a specific area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. Given that the orders can restrict what people can do and how they behave in public spaces, it is important that the restrictions imposed are focused on specific behaviours and are proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.

7.2 A PSPO can only be imposed if it passes the legal test. The Council needs to be satisfied on reasonable grounds that the activity or behaviour concerned, carried out, or likely to be carried out, in a public space:

- has had, or is likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed.

7.3 There must be clear evidence of the specific behaviour being targeted to enable the Council to satisfy the above legal test.

7.4 The Council should consider the potential wider impact of any PSPO and ensure that it is a reasonable and proportionate response to the anti-social behaviour evidenced.

- 7.5 As stated in section 4, the Anti-Social Behaviour, Crime and Policing Act 2014 and the associated statutory guidance, requires the Council to consult with key stakeholders. The statutory guidance also strongly recommends that the Council engages in an open and public consultation to give the user of the public space the opportunity to comment on whether the proposed restriction(s) are appropriate, proportionate or needed at all. The Council should also ensure that specific groups likely to have a particular interest are consulted.
- 7.6 Before any PSPO is made, the Council must publish the draft order in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Order (Regulations) 2014 and ensure that the draft order is available on the website.
- 7.7 Once any PSPO is made it should be published in accordance with the Regulations and must:
- identify the activities having the detrimental effect;
 - explain the potential sanctions available on breach; and
 - specify the period for which the order has effect.
- 7.8 It is important that the Council comply with all the relevant legislation and statutory guidance to ensure that any PSPO introduced is legally enforceable and to reduce the possibility of any potential legal challenge, either in relation to the decision to introduce the PSPO or in relation to any enforcement in respect of the restrictions attached to the order.

8. Implications for Children and Young People and Vulnerable Adults

- 8.1 The need to consult with young people has been identified and will be delivered during the full public consultation. This will be met through current resource provision in the area, which already sees a high level of engagement with young people.

9. Equalities and Human Rights Advice and Implications

- 9.1 There are various languages spoken in the area and these will be considered when delivering the consultation, making use of local organisations with various language skills. A full equality impact assessment will be conducted and provided to support the final decision in May 2019 and will be informed by the full public consultation. An outline Equality Impact Assessment is attached as appendix B.

10. Implications for Partners

- 10.1 Clearly this report concerns South Yorkshire Police and local organisations, which will be offered the opportunity to feedback in writing, should a consultation be launched.

11. Risks and Mitigation

- 11.1 As identified within the body of the report.

12. Accountable Officer(s)

Sam Barstow, Head of Community Safety, Resilience and Emergency Planning
Tom Smith, Assistant Director, Community Safety and Street Scene

Approvals obtained on behalf of:-

	Named Officer	Date
Chief Executive	Sharon Kemp	03/03/19
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	28/02/19
Assistant Director of Legal Services (Monitoring Officer)	Stuart Fletcher	28/02/19

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This report is published on the Council's [website](#).