

**Committee Name and Date of Committee Meeting**

Cabinet – 10 June 2019

**Report Title**

Proposal for a Public Space Protection Order in the Fitzwilliam Road area.

**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, Strategic Director of Regeneration and Environment

**Report Author(s)**

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**Ward(s) Affected**

Rotherham East

**Report Summary**

Following the decision by Cabinet on the 18<sup>th</sup> March 2019, the Council launched a targeted consultation in relation to a proposed Public Space Protection Order for the Fitzwilliam Road area. The draft order published proposed a range of conditions as detailed within the body of the report.

This report details the process and summarises the responses received during the consultation. It makes recommendations based upon the views expressed.

**Recommendations**

1. That approval be given to the implementation of a Public Space Protection Order on the boundaries as shown as draft in Appendix 1, for the maximum three year period.
2. That the specific conditions recommended in section 7 and captured within the draft Order at Appendix 1 be approved and adopted.
3. That the action to pilot a 'Tidy Garden Scheme' in relation to waste in gardens be noted.

**List of Appendices Included**

Appendix 1 Draft Order  
Appendix 2 Consultation Analysis  
Appendix 3 Equality Impact Assessment

**Background Papers**

None

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Overview and Scrutiny Management Board – 05 June 2019

**Council Approval Required**

No

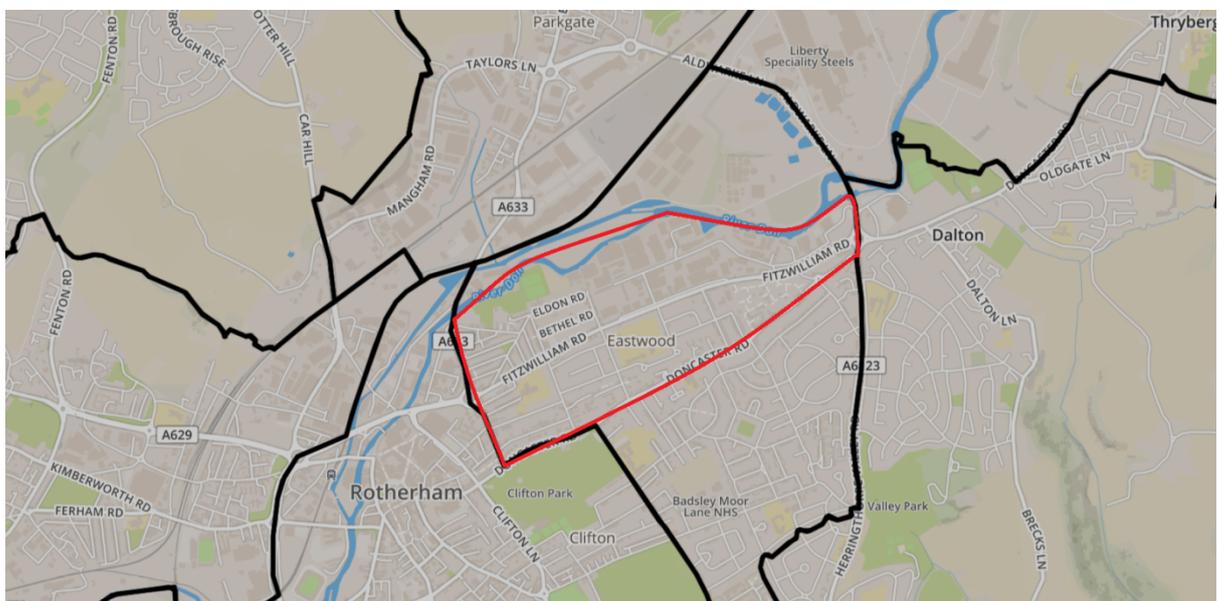
**Exempt from the Press and Public**

No

## Proposal for a Public Space Protection Order in the Fitzwilliam Road area.

### 4. Background

- 4.1 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. They allow prohibitions or requirements to be made at a local level, in response to complaints from a range of sources, including the public, business and local Councillors. The breach of a prohibition or requirement, contained within a PSPO, becomes a criminal offence and offenders are then liable to a Fixed Penalty Notice or prosecution through the Magistrates court.
- 4.2 On the 18<sup>th</sup> March Cabinet considered a detailed report in relation to a proposal to consult on a draft Public Space Protection Order for the Fitzwilliam Road area of Rotherham. The area proposed is outlined in red below:



- 4.3 In order to make a decision to progress to consultation, the Council was required to be satisfied, on reasonable grounds, that the activity or behaviour concerned, that is being carried out, or is 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.

4.4 The consultation process is a legal requirement within the ASB, Crime and Policing Act 2014<sup>1</sup> and is supported by Statutory Guidance<sup>2</sup>. The guidance requires that consultation is specifically undertaken with the Chief Officer of Police and the Office of the Police and Crime Commissioner. It also requires the Council consult with whatever community representatives they think appropriate and strongly recommends open and public consultation. All of these requirements and recommendations have been met.

## 5. Consultation Process

5.1 In order to consult the Council specifically targeted local residents, community groups, businesses and partner agencies working in the area. In relation to partners, the consultation included the following;

- Chief Officer of Police
- Police and Crime Commissioner
- South Yorkshire Fire and Rescue
- Rotherfed
- Rotherham Ethnic Minority Alliance
- Clifton Learning Partnership

5.2 The Council utilised various networks including: Landlord networks through Selective Licensing, Neighbourhood Teams, the Safer Rotherham Partnership and those aligned to Controlling Migration Funding. All organisations received an email outlining the proposal and methods of responding to the consultation.

5.3 The consultation was supported by traditional paper-based surveys, an online survey, and a number of engagement events which are detailed below. Given that a high proportion of the community is understood to be Slovak speakers, the paper forms were also made available in Slovak. A leaflet and poster was developed and made available in local community venues and businesses. Social media posts were also shared regularly throughout the period.

5.4 In order to support engagement with local residents, the Council attended more than 20 events and engagement activities, which were advertised through leaflets in the community with delivery supported by partner agencies, Councillors and local 'Street Champion' volunteers. They included:

- Clifton Learning Partnership Community Café;
- Chat and Play;
- Eastwood Primary Breakfast Club/Coffee mornings;
- Neighbourhood Watch
- Specific drop-in events at community locations, including Clifton Learning Partnership and Unity Centre;
- Door to door engagement of local businesses by Council officers;

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<sup>1</sup> Anti-Social Behaviour Crime and Policing Act 2014 -

<http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted>

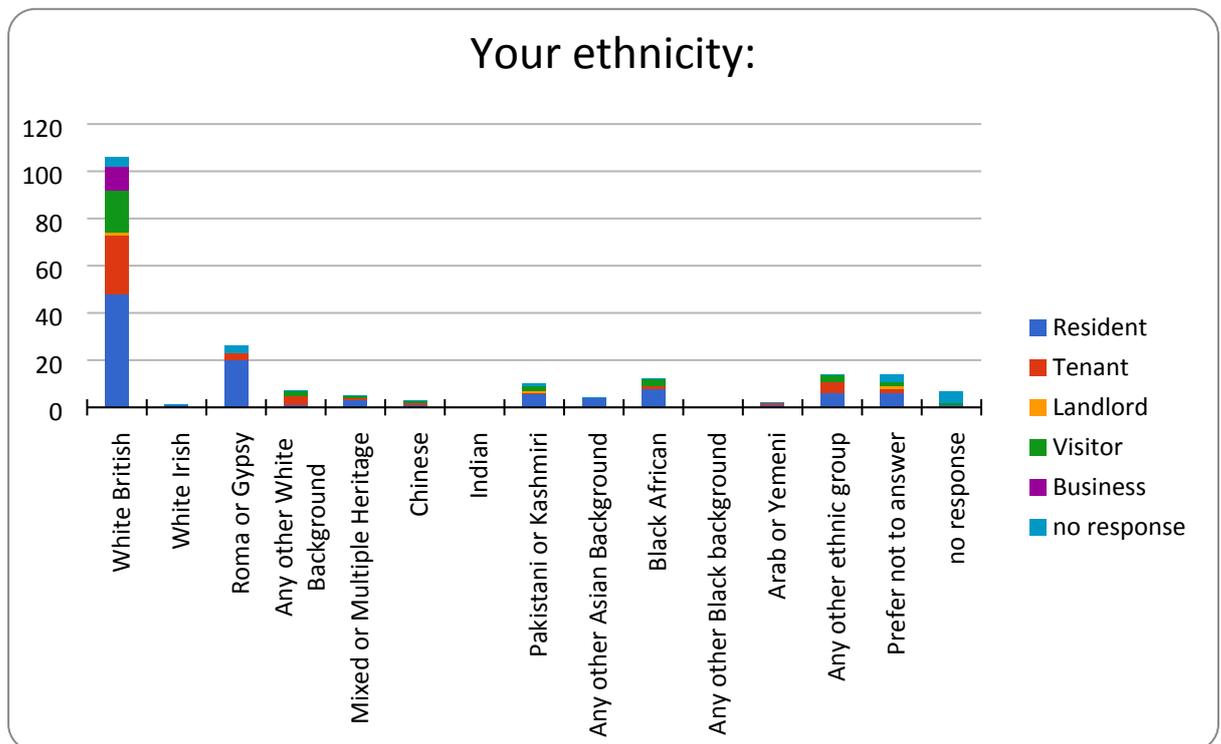
<sup>2</sup> Statutory Guidance – Anti-Social Behaviour Crime and Policing Act -

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/679712/2017-12-13\\_ASB\\_Revised\\_Statutory\\_Guidance\\_V2.1\\_Final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679712/2017-12-13_ASB_Revised_Statutory_Guidance_V2.1_Final.pdf)

- Two public engagement events at the local Aldi supermarket.

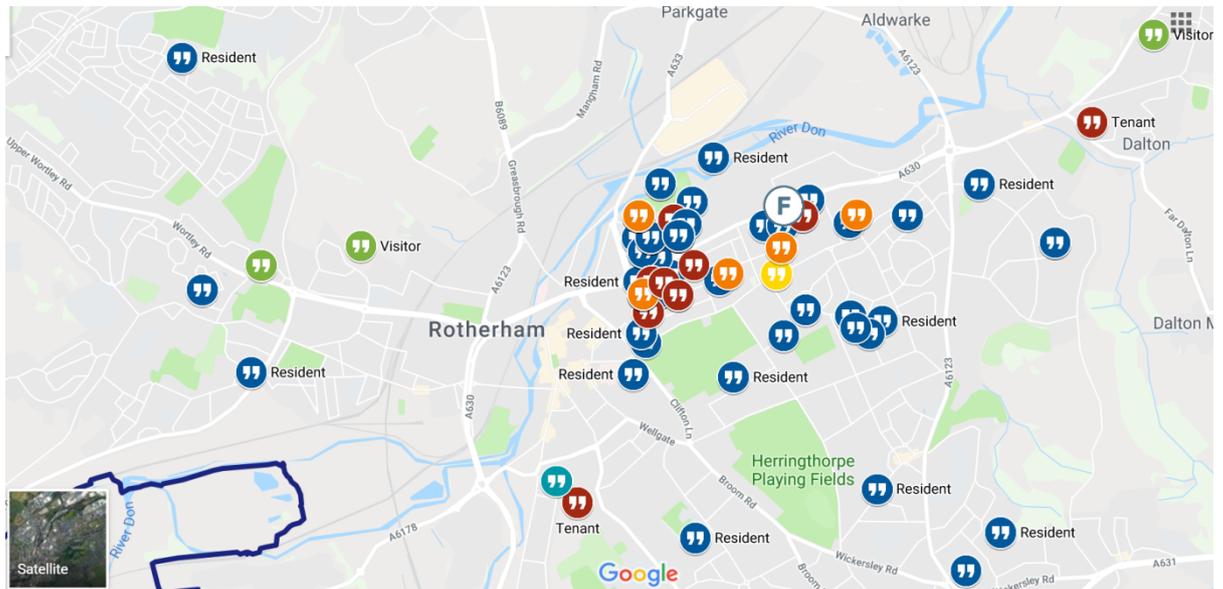
## 6. Consultation Responses

- 6.1 The public consultation ran from 2<sup>nd</sup> April 2019 to 5<sup>th</sup> May 2019 and elicited 211 responses. 60% of responses were received using the paper-based survey form, with the remainder (40%) being received through the online survey. A basic analysis is attached at Appendix 2 and the full analysis is available on request.
- 6.2 One of the specific aims of the consultation, identified through the initial Equality Impact Assessment, was to ensure a broad engagement from all parts of the community. The chart below shows the ethnicity of respondents:



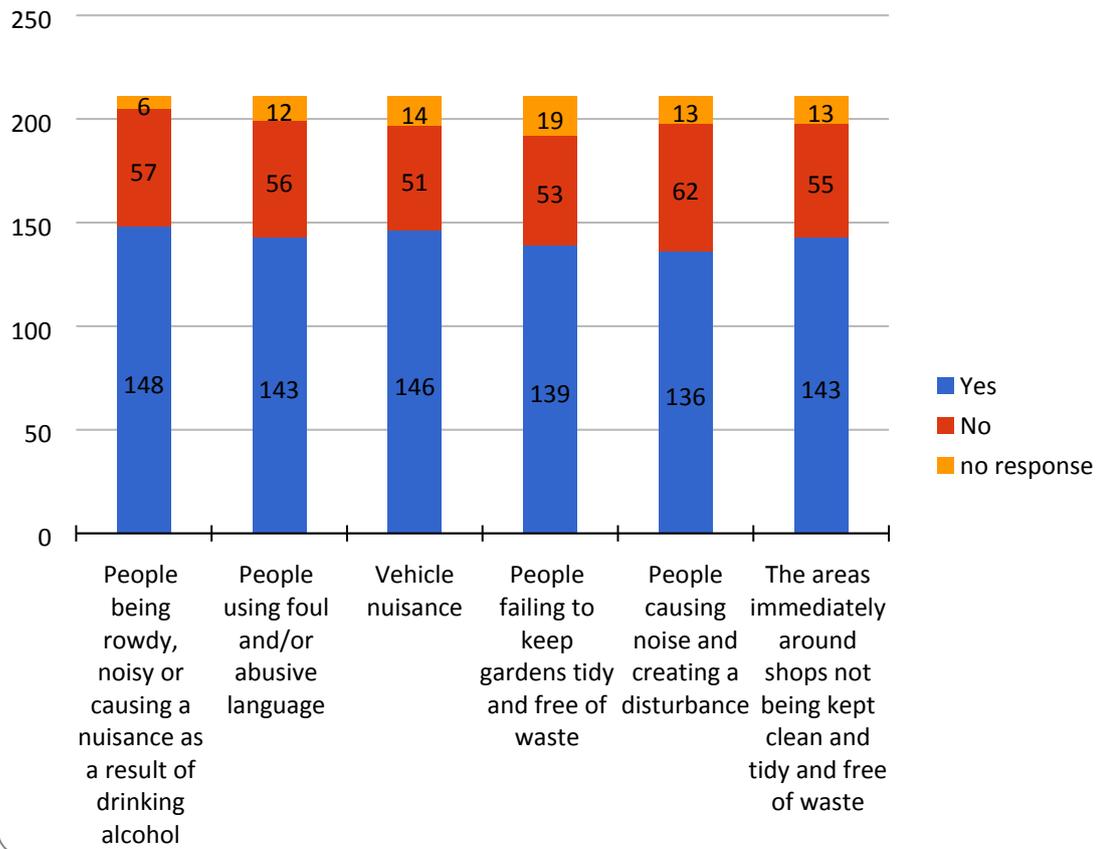
- 6.3 39% of respondents identified as ethnicities other than 'White British' or 'White Irish', and 10% of people did not record their ethnicity. 12% of respondents identified as 'Roma or Gypsy'. It should be noted that 5% of respondents wrote 'Slovak' or 'Slovakia' on the form but either did not identify their ethnicity, or identified as either 'any other White Background' or 'any other Ethnic Group'. A further 4% of respondents filled in a paper form printed in the Slovak language, but either did not identify their ethnicity, or identified as either 'any other White Background' or 'any other Ethnic Group'.
- 6.4 Over 20% of respondents therefore either identified as 'Roma or Gypsy' or 'Slovak/Slovakian', or filled in a form in the Slovak language. 18% of the total responses received were elicited from a survey form that had been made available in Slovak.

- 6.5 The consultation also sought to focus on gathering views from people who live or work in the area. The map below gives an indication of the concentration of responses based on the postcodes provided:



- 6.6 Overall 73.93% of respondents thought a PSPO would help to tackle anti-social behaviour. 70.75% of residents were supportive and 81.4% of tenants. Landlords were least supportive, with 66.67% not supporting, although this is based on only three responses from landlords. 90% of the nine businesses that responded supported the proposed order.
- 6.7 Whilst there were differences in the level of respondents from different ethnicities who thought a PSPO would help to tackle anti-social behaviour, 67% of respondents who identified as ethnicities other than 'White British' or 'White Irish' were supportive of the proposal. 84% of respondents who identified as 'White British' or 'White Irish' were supportive.
- 6.8 The survey asked respondents whether they had been affected by particular types of Anti-Social Behaviour in the Fitzwilliam Road area. The chart below shows the response rate to each individual type of concern, each of which is linked to a condition within the draft order:

## Have you been affected by any of the following types of Anti-Social Behaviour in the Fitzwilliam Road area?

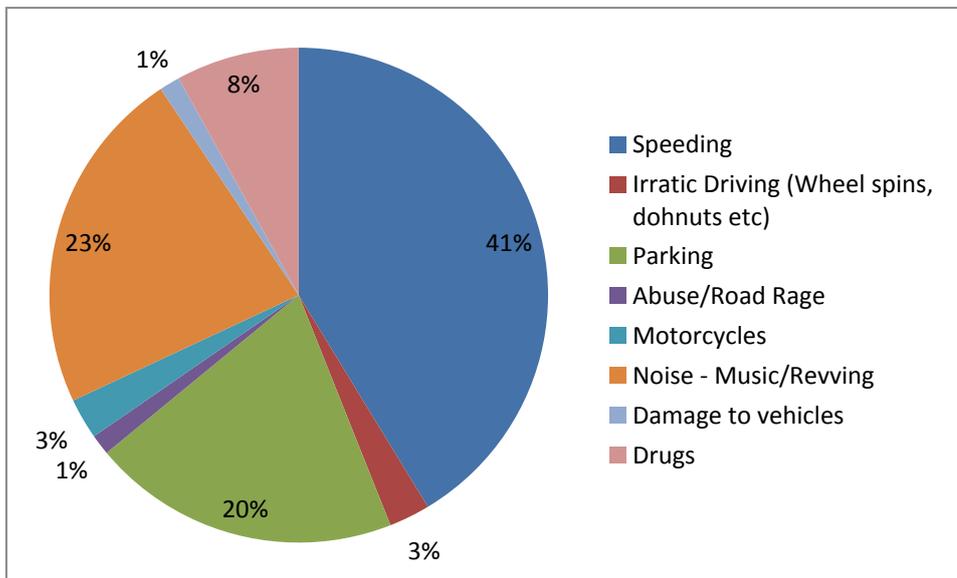


6.9 As can be seen, more people have been affected by issues such as 'People being rowdy, noisy or causing a nuisance as a result of drinking alcohol', vehicle nuisance and the areas around shops not being kept clean and tidy and free of waste, with 70.14%, 69.19% and 67.77% respectively. Whilst in all areas at least 64% of respondents said they had been affected by each issue, the following areas were the least frequent:

- People causing noise and creating a disturbance 64.45%
- Failing to keep gardens tidy and free of waste 65.88%
- People using foul and/or abusive language 67.77%

6.10 The third question asked respondents if they agreed that a PSPO would help to tackle each individual issue. Again all proposed conditions received support, with the lowest gaining around 69% support. Restrictions on noise that is likely to cause a disturbance, vehicle nuisance and for business to maintain a tidy curtilage received the most support, with 71.56%, 74.88% and 74.41% respectively. Requirements around tidy gardens received the least support, although 69.19% of respondents still supported this proposal.

6.11 In relation to vehicle nuisance, respondents were asked to specify the nature of the nuisance they had experienced. As this required a space for 'free-text' the responses have been manually analysed and popular issues counted in particular categories. There were 80 responses however some contained references to multiple issues, which is what the analysis has focussed on. As can be seen from the pie chart below, by far the most significant reference was to speeding vehicles (41% of references), followed by noise (23% of references) and parking (20%).



## 7. Partner Responses

7.1 Formal responses were received from both the Chief Officer of Police, alongside the Police and Crime Commissioner. Both responded positively, with the Police expressing a desire to work in partnership to apply the Order, and noting the partnership approach in development of the Order.

7.2 Responses have also been received from the following organisations:

- Clifton Learning Partnership (CLP)
- Rotherham Ethnic Minority Alliance (REMA)
- Rush House
- Target Housing
- Roma Forum
- YMCA White Rose

7.3 Of the responses received from community organisations, views were mixed in relation to support or otherwise for the PSPO.

- 7.4 One of the key points raised by community groups is that enforcement alone will not change behaviours; engagement and education are the only long term sustainable solutions. Concerns have also been raised that the PSPO will not address the issue that community members have raised as their greatest concern: drug use and drug dealing. Whilst it is the case, that a PSPO cannot address problems with drug use and drug dealing, given the consultation feedback, officers will now develop a specific multi-agency plan to address drug use/supply in Eastwood.
- 7.5 Concern has also been highlighted in relation to prohibition 4.ii “Behaving in such a way or using language that causes, or is likely to cause, harassment, alarm or distress to another person”. It is suggested that interpretation of this condition is subjective and there are many examples of language that may alarm or distress another but do not meet the threshold of being abusive or foul.
- 7.6 Community organisations also raise concerns about the level of poverty within the defined area and how targeting these residents with Fixed Penalty Notices will exacerbate existing economic hardship. They also raise concerns regarding language barriers and cultural differences within this area and how this could impact on residents who are already vulnerable. Capacity to enforce is also highlighted as a concern.
- 7.7 Officers have also engaged with community members through any relevant forums or community groups, with a particular focus on relevant protected characteristics such as race and age. Within these sessions concern was raised that the proposal is targeting the Roma community and their culture, particularly in relation to noise as respondents from the Roma community expressed that they are “...a naturally loud community”. Concerns were also raised over the consumption of alcohol in public places as many residents don’t have gardens and therefore socialise on doorsteps/parks. Again affordability in relation to fines was discussed; with residents noting many are already living in poverty and asked if alternatives to fines could be explored.

## **8. Resources**

- 8.1 In developing the recommendation in relation to the proposed PSPO, significant consideration has been given to the resources available to enforce the Order and the benefits of a PSPO over any existing powers. In assessing the impact of a potential PSPO, it is important to be clear that the implementation of such an order does not in itself bring about any additional resources to the area.
- 8.2 Both the Police and the Council recognise the current pressures on resources relating to enforcement activity. In general terms, there is a dedicated Police Constable and two Police Community Support Officers supporting the area. In terms of Council resources, a Warden is currently dedicated to the area, alongside an Enforcement Officer. However, these resources are generally driven by demand and therefore not often available for general patrol work. If the order is approved for implementation, it will therefore be important to communicate that, whilst no additional resources are available, the order will provide Officers with the ability to target behaviours early, before becoming

more serious issues of anti-social behaviour or criminal offences, which may take additional time to resolve. Additionally, as within the town centre, the PSPO provides a means for identification of individuals who repeatedly cause a nuisance and supports robust evidence gathering processes, which allow further action to be taken in the form of alternative orders, such as injunctions or Criminal Behaviour Orders. In the most extreme of cases, such as criminal behaviour orders, breaches of conditions can result in a prison sentence.

- 8.3 In some cases, there are a range of alternative powers available, which are detailed in section 7 below in the column titled 'Other Relevant Legislation'. Careful consideration has been given to any existing powers against any additional benefit the powers contained within the proposed PSPO would provide and again this is detailed in the table in section 7 below.

## **9. Options considered and recommended proposal**

- 9.1 Whilst consideration has been given to not implementing a proposed Public Space Protection Order, given the levels of support from the public consultation, this has been discounted.
- 9.2 It is important to note that the evidential basis in terms of the levels of issues suffered was established in the report to Cabinet on the 18<sup>th</sup> March 2019. Whilst the picture has improved as a result of the efforts by partners working the local area over a sustained period, Eastwood still suffers high levels of Crime and Anti-Social Behaviour in comparison to many other wards across the Borough.
- 9.3 There has been concern raised in relation to an individual's capacity to pay fines. Consideration will be given to individual circumstances where appropriate however the general expectation will be payment in full within the required time period. The impact however should be monitored carefully post implementation and impacts reported as a part of the recommend review in sec 9.3. This could allow offenders the opportunity to discharge liability for the offence through restorative approaches and community payback, a reduced fee for early repayment or other similar measures.
- 9.4 Following a review of the feedback, it is recommended that a PSPO be implemented on the boundaries suggested in Appendix 1.
- 9.5 Recommendations in relation to individual conditions can be found in the table overleaf.
- 9.6 It is further recommended the Cabinet note the action to pilot a 'Tidy Garden Scheme' in relation to waste in gardens.

Condition	Other Relevant Legislation	Rationale	Benefit	Recommendation
Prohibited from Consuming alcohol in public, other than on licensed premises or at a licensed event	None	This was the issue most likely to affect people in the area overall. With those describing themselves as residents more likely to have been affected by issues they associated with alcohol, alongside businesses. Overall, 71.56% of respondents supported this condition.	Preventing the consumption of alcohol in the street may prevent issues of crime and anti-social behaviour which may occur as a result of consumption of said alcohol in a public place.  The PSPO would give authorised officers the power to request alcohol is surrendered and the power to issue an FPN if the individual refuses.	Proceed
Prohibited from Behaving in such a way or using language that causes, or is likely to cause, harassment, alarm or distress to another person.	Public Order Act 1986, specifically section 4A and 5 provide for the offences of Causing Intentional Harassment Alarm or Distress and Using Threatening, Abusive or Insulting Behaviour. The Act requires intent to be demonstrated or threats to be present but does allow Police Officers to act in some circumstances.  The ASB Crime and	This condition is applied within the Town Centre PSPO and the Public Order Act gives a basis for legal interpretation. Use of a PSPO could allow additional officers with the ability to act, such as those officers authorised by the Council and Police Community Support Officers (PCSOs).  The consultation again showed support for this condition, with 68.89% of respondents believing a PSPO would help. Again levels were slightly higher amongst residents.	Current Public Order Legislation carries a high threshold due to the need for officers to determine <i>intention</i> to cause harassment alarm or distress. This legislation is also only enforceable by Police Constables.  The PSPO would give Council Officers and PCSOs additional powers and will lower the threshold in relation to the requirement for <i>intention</i> to be evidenced. It is clear that whilst there may not be intent, an individual behaviour and use of language can still have a	Proceed

Condition	Other Relevant Legislation	Rationale	Benefit	Recommendation
	<p>policing Act 2014 provide powers to address persistent offenders such as community protection notices.</p>	<p>Consideration has been given to Article 10 of the Human Rights Act and it is noted that a precedent exists in law through the Public Order Act as referenced. Detailed guidance will be established for officers in order to ensure transparency and consistency in enforcement practices.</p>	<p>detrimental effect on the quality of life in an area and this is what the proposal seeks to address.</p>	
<p>Prohibited from Using a vehicle in such a manner that is likely to impact on the quality of life of those in the locality</p>	<p>Road Traffic Act 1991 provides for offences in relation to dangerous driving. Road Traffic Regulation Act 1984 provides for the offence of speeding.</p> <p>Environmental Protection Act 1990, references to noise as per the below however this does not provide for moving vehicles.</p>	<p>69.19% of respondents stated they had been affected by issues relating to vehicles. Specific comments were requested within this section in relation to the type of issues. Quite clearly the predominant issues are speeding and parking. Neither of which can be tackled by the use of a PSPO. The next most likely issue was noise, which could be addressed by the noise provisions recommended below in the case of static vehicles not subject to Road Traffic regulations.</p>	<p>No additional benefits identified in relation to speeding, erratic driving or parking, where powers already exist. Potential benefits in relation to noise issues identified are detailed again the proposed condition relating to noise.</p> <p>The feedback as a result of the consultation however will still need to be addressed. In relation to speeding, officers will seek to engage with community champions to deliver a community speedwatch. Officers will also seek further assurances from the Police in respect of planned activity to challenge speeding issues in the area. The issues in</p>	<p>Does Not Proceed</p>

Condition	Other Relevant Legislation	Rationale	Benefit	Recommendation
			relation to parking have been passed to the relevant department to consider any additional support that can be provided.	
Prohibited from Causing or creating noise that is likely to have an impact on the quality of life of those in the locality	<p>The Environmental Protection Act 1990 provides local authorities a legal duty to investigate complaints about potential statutory nuisances – including noise - and to take action to remedy them if they are found to be substantiated.</p> <p>Other powers contained within the ASB Crime and Policing Act 2014 can be applied to individuals whose behaviour is persistent</p>	<p>64.45% of respondents said they had been affected by this issue. Whilst still a majority of respondents affected, this represented the smallest positive indication. Never the less 71.56% of respondents agreed that a PSPO would help to tackle the issue.</p> <p>Whilst there is a provision for tackling statutory noise nuisance, this applies to premises emitting noise and only some circumstances on the street such as stationary vehicles, machinery or equipment emitting noise. The restrictions mean that other types of noise in public spaces are not covered by the Act and therefore a PSPO may provide added benefit. The PSPO would also allow both Police and Council officers powers to address a range of on street</p>	<p>There are currently no legal provisions in place for on-street noise which does not relate to a stationary vehicle, amplified music or machinery. The PSPO would therefore provide a power for both the Council and Police to deal with behaviour that creates unreasonable noise in the street.</p> <p>Where no clear power exists, these issues can often fall between agencies meaning there is unlikely to be a satisfactory response to any complaints received.</p>	Proceed but limited to public spaces

Condition	Other Relevant Legislation	Rationale	Benefit	Recommendation
		<p>noise. This does not however increase the resource and nor should the power be used to curtail reasonable behaviours.</p> <p>In the cases of premises emitting noise, it may conflict with article 8 of the Human Rights Act to apply powers which restrict an individual's liberties within their home and may constitute government interference in one's private life. Statutory nuisance is built around persistence, which protects against interference with article 8. It is important to note that 'persistence' can be interpreted in different ways dependent upon the impact. For example, a loud party causing a significant impact can be immediately acted upon. Lower level noise may only be considered persistent after a protracted period of impact.</p>		
All occupiers of properties or, in	Environmental Protection Act 1990 again provides	There are a wide variety of enforcement powers available	It is likely that limited additional benefit will be brought, particularly	Does not proceed in relation to a

Condition	Other Relevant Legislation	Rationale	Benefit	Recommendation
<p>the case of vacant properties the Landlords/Owner, are required to maintain their gardens, driveways and any other outdoor space free from litter, waste, furniture, kitchen appliances or any other items which could be considered waste;</p>	<p>a legal duty to investigate complaints about potential statutory nuisances – including accumulations - and to take action to remedy them if they are found to be substantiated. These must however be prejudicial to health or constitutes a nuisance.</p> <p>Prevention of Damage by Pests Act 1949 requires local authorities to control mice and rats and provides powers to local authorities to require landowners to take action to keep land free from mice and rats, which can include the clearance of litter</p> <p>The ASB Crime and policing Act 2014 provide powers to address persistent offenders such as community protection notices.</p>	<p>to address and prevent this issue, which in many cases are beneficial in comparison to the use of a PSPO power as they can in many cases legally prevent the recurrence of the issue. In the main the issues identified in the regard relate to large items of waste or significant amounts of waste. In such circumstance, to use a power that would not provide the best outcome (e.g. removal of the waste and a penalty) may conflict with the Councils enforcement policy.</p> <p>Additionally, following consultation with the Council's legal team, this condition cannot be applied through use of the order as a person's garden cannot be considered a public space under this part of the legislation. The detailed guidance states a public space is <i>'wide and includes any place to which the public or any section of the public has access, on payment or</i></p>	<p>in light of the significant level of current enforcement activity, which has seen the numbers of interventions in this area increasing over the previous year. Since March of this year, around 200 enforcement visits have taken place, with over 70 informal enforcement actions and over 20 formal legal notices.</p> <p>There is however clearly a need to do more to seek to prevent the recurrence of this issue and it is therefore proposed, as an alternative, that the Council seek to pilot a 'Tidy Garden' scheme in this area, alongside others. A scheme of this type would seek to provide clear and concise information about the expectations around garden spaces, and positive activity to support well-kept gardens, alongside continuing to improve the enforcement response.</p>	<p>PSPO condition.</p> <p>However, pilot a tidy garden scheme.</p>

Condition	Other Relevant Legislation	Rationale	Benefit	Recommendation
		<p><i>otherwise, as of right or by virtue of express or implied permission, for example a shopping centre', this is not thought to apply to a private premise.</i></p>		
<p>In this area all business will ensure the publicly accessible curtilage of their business premise is maintained in a clean and tidy condition, free from litter and general rubbish</p>	<p>The Environmental Protection Act provides reactive power to address businesses that cause an issue in relation to waste disposal and additional provisions exist for the enforcement of trade waste regulations. The PSPO however would place a proactive duty on all businesses in the area, for which there is no current legal requirement.</p>	<p>67.77% of respondents reported being affected by this issue. Similarly high level of support from respondents for implementing this condition at 74.41%, the second highest positive response rate.</p> <p>As opposed to considerations in relation to waste in gardens, this would seek to place a proactive requirement on all businesses to address accumulations of small waste from potentially a variety of sources. It is important to note that in such cases the business is unlikely to be responsible for dropping or leaving any waste (likely to be customers) however the waste will often be linked to individual businesses, such as takeaways.</p>	<p>Current powers are responsive only and can be applied where a business premise is found to be causing an issue due to their management of waste within and around the public areas of their business.</p> <p>This provides a power that is quick and easy to apply and furthermore sets a clear expectation in the area that businesses proactively manage waste/litter issues.</p>	<p>Proceed</p>

Condition	Other Relevant Legislation	Rationale	Benefit	Recommendation
		<p>Detailed guidance will need to be prepared for officers in this regard, as with all other conditions, and information will need to be shared in a structured way with business in the area before enforcement action is taken.</p> <p>It is important to note that due to the definition in relation to public space, this requirement will only apply to areas where the public have access. This may be implied access or access where payment is required. It would not include secure areas to the rear of business where the public are explicitly not allowed access.</p>		

## **10. Consultation on proposal**

10.1 The consultation process has been detailed within the body of this report and has been delivered in line with the legal recommendations.

## **11. Timetable and Accountability for Implementing this Decision**

11.1 Signage locations have been identified and contact made with the supplier. Draft guidance has been developed in order to ensure that officers are ready to mobilise subject to the decision of Cabinet members. An estimated two weeks would be required to allow for the printing and distribution of ticket books to allow authorised officers to issue FPNs. This would also allow for a period of communication with those living, working or visiting the area.

11.2 The Council will seek to work with the Police to ensure effective operational role out, within the resources currently available. Progress in relation to enforcement will be reported between partners on a weekly basis and regular data will be provided to the Cabinet Member for Waste, Roads and Community Safety.

11.3 The Head of Community Safety and Regulatory services will be accountable for implementation. A review one year post implementation is recommended and the order will last for a maximum of three years.

## **12. Financial and Procurement Advice and Implications**

12.1 The cost of this consultation exercise has been contained within existing approved revenue budgets.

12.2 The proposed enforcement activities will be managed with existing staffing resources, within existing approved revenue budgets.

## **13. Legal Advice and Implications**

13.1 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.

13.2 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.

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

13.3 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.

13.4 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.

13.5 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.

13.6 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.

13.7 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 capability 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.

13.8 The decision to introduce a PSPO and the provisions of the PSPO must be informed by the consultation responses. All responses must be fully considered, in order to minimise any potential legal challenge in respect of the order.

#### **14. Human Resources Implications**

14.1 There are no HR implications arising from this report.

#### **15. Implications for Children and Young People and Vulnerable Adults**

15.1 Children and young people below the age of 18 are not subject to enforcement under the PSPO.

15.2 Vulnerable adults could be impacted through enforcement of the order. Guidance issued to officers will ensure appropriate consideration of any vulnerability.

## 16. Equalities and Human Rights Advice and Implications

- 16.1 Human rights implications have been considered in the formulation of recommendations in relation to individual conditions.
- 16.2 A full equality impact assessment is attached as Appendix 3.

## 17. Implications for Partners

- 17.1 Council Officers and Police Officers/ Police Community Support Officers can enforce the order and therefore consideration has been given jointly by the Council and the Police. The Police have also formally responded to the consultation as a statutory partner.
- 17.2 Wider partners have been engaged in considering whether to implement an order and their views are captured within the body of the report.

## 18. Risks and Mitigation

- 18.1 The risk of creating an order is that expectations are set that the issues will disappear however, there are no additional resources to implement the order and therefore challenges will continue. The order does however provide more powers relevant to issues in the local area and may therefore help to set standards and allow those standards to be upheld. In mitigation, every effort will be made around effective implementation and what it might mean to victims, complainants and residents.

## 19. Accountable Officer(s)

Sam Barstow, Head of Service

Tom Smith, Assistant Director Community Safety and Street Scene

Approvals obtained on behalf of:-

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp	23/05/19
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	22/05/19
Head of Legal Services (Monitoring Officer)	Bal Nahal	22/05/19
Assistant Director of Human Resources (if appropriate)		Click here to enter a date.
Head of Human Resources (if appropriate)	John Crutchley	02/05/19

*Report Author:*

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