

**Committee Name and Date of Committee Meeting**

Cabinet - 20 November 2023

**Report Title**

Public Spaces Protection Order – Town Centre & Clifton Park

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

No

**Strategic Director Approving Submission of the Report**

Paul Woodcock, Strategic Director of Regeneration and Environment

**Report Author(s)**

Emma Ellis – Head of Community Safety and Regulatory Services

Sam Barstow – Assistant Director Community Safety and Street Scene

**Ward(s) Affected**

Boston Castle and Rotherham East

**Report Summary**

The Report seeks approval to renew the Town Centre and Clifton Park Public Spaces Protection Order. The renewed order will cover the same area, with largely the same conditions as previously included in the Order. This includes making it an offence for an individual to be found to be:

- Continuing to consume alcohol when required to stop doing so by any authorised officer.
- Behaving in such a way or using language that causes, or is likely to cause, harassment, alarm or distress to another person.
- Approaching people for marketing or fund-raising purposes without an appropriate Licence.
- Urinating or defecating in public, other than within designated public toilets.
- Spitting saliva or any other product from the mouth.
- Being in charge of a motor vehicle and using it in a way to cause a nuisance to others or anti-social behaviour.

The order will also require that individuals are:

- Keeping dogs on a lead (other than in the designated dog exercise areas in Clifton Park)

### **Recommendations**

1. That Cabinet approves the designation of a PSPO in the Town Centre and Clifton Park, as detailed in Appendix 1, for a period of one year.

### **List of Appendices Included**

Appendix 1 Draft Public Spaces Protection Order – Town Centre & Clifton Park  
Appendix 2 Summary of Consultation Responses  
Appendix 3 SYP ASB & Crime Data 2020 to 2023 for the designated area  
Appendix 4 Equalities Impact Assessment  
Appendix 5 Carbon and Climate Change Assessment

### **Background Papers**

- Information on current Public Spaces Protection Orders:  
[Public Spaces Protection Orders \(PSPOs\) – Rotherham Metropolitan Borough Council](#)
- Public Spaces Protection Orders – Guidance for Councils provided by the LGA:  
[Public spaces protection orders: guidance for councils \(local.gov.uk\)](#)
- General Enforcement Policy:  
[General Enforcement Policy – Rotherham Metropolitan Borough Council](#)
- Help with Anti-Social Behaviour gov.uk guidance:  
[Help with anti-social behaviour for social housing tenants - GOV.UK \(www.gov.uk\)](#)
- Copy of current sealed Order, effective 2020:  
[public-spaces-protection-order-town-centre-and-clifton-park \(rotherham.gov.uk\)](#)

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

None

### **Council Approval Required**

No

### **Exempt from the Press and Public**

No

## **Public Spaces Protection Order – Town Centre and Clifton Park**

### **1. Background**

- 1.1 The Anti-Social Behaviour, Crime and Policing Act 2014 created powers to introduce Public Spaces Protection Orders (PSPOs) in order to prevent individuals or groups committing anti-social behaviour in public spaces. They are intended to help reduce the impact of anti-social behaviour in public spaces.
- 1.2 On 21 September 2020, Cabinet agreed to the implementation of a Public Spaces Protection Order for the Town Centre and Clifton Park to come into effect from 1 October 2020. The relevant statute dictates that such Orders can only be in place for a maximum of three years at a time, and, therefore, the Council must consider whether to make a further order.
- 1.3 A public and stakeholder consultation took place between 26 June 2023 and 6 August 2023. This took the form of an online public consultation via the Council's website, and direct invitations to key statutory agencies, such as the Police and Community groups, such as RotherFed. Consultation on any proposed order is a statutory requirement and following a review of the level of feedback received, it was decided a further period of consultation should be delivered in order to increase responses, this also included additional face to face engagements and took place between the 2 and the 16 of October 2023.
- 1.4 This report details a review of the existing PSPO, outcomes of the targeted public and stakeholder consultation on renewing the order, along with a recommendation to renew the Order, with the inclusion of a condition that aims to address the issues associated with vehicle nuisance, as identified in the evidence provided.

### **2. Key Issues**

- 2.1 Consideration has been given to not making a further order however, there remains a view amongst Enforcement Officers and Police Colleagues that the additional tools add value when responding to incidents of ASB.
- 2.2 Since the last designation of the Public Spaces Protection Order in the Town Centre and Clifton Park, complaints of Anti-Social Behaviour have risen marginally and peaked in October 2022 (appendix 3 provides an overview of this data). It is worth noting for context that Covid had a significant impact on recorded figures relating to crime and Anti-Social Behaviour (ASB), with general reductions in the initial stages of the pandemic rising to peaks in the later stages. Complaints relating to rowdy or inconsiderate behaviour remain the most significant in terms of anti-social behaviour, recorded by South Yorkshire Police, in the town centre and Clifton Park. As can be noted from the table at the top of page 4, within appendix 3, the Council has sought to address the key areas of concern with the proposed conditions detailed in section 3.2.

- 2.3 The Council and partners continue to receive complaints relating to the town centre and Clifton Park from businesses, Councillors, and visitors alike. The town centre is a high footfall area, and the Council and partners are seeking to address any concerns through a partnership plan, regular meetings and targeted activities.
- 2.4 The town centre is growing as a residential area with regeneration and development projects planned and completed, together with the implementation for the town centre masterplan already underway. A key part of the masterplan implementation is additional residential developments in and around the town centre. It is important that the Council and partners support residents and drive improvements through robust measures to tackle anti-social behaviour.
- 2.5 Following public and stakeholder consultation, the preferred option would be to renew the Order formally, with an additional clause regarding vehicle nuisance, due to the significant evidence presented. In addition, and in acknowledgement of the enforcement challenges, it is proposed that the order is made for one year only to allow for a review of the enforcement approach and any wider variations that may be required in future. The rationale for the proposed conditions is provided below:

2.6

Condition –	In Current Order?	Recommendation	Rationale
In this area any person carries out acts from which they are prohibited, commits an offence, namely:			
Consuming alcohol other than on a licensed premises or at licensed event	Yes	Vary wording of Clause so that it reads:  <i>Continuing to consume alcohol when required to stop doing so by any authorised officer</i>	This has been the most frequently enforced clause under the current Order. While recording of such crime/ASB data is not broken down at such a level to show this, the proportion of levels of rowdy and nuisance behaviour may be driven by underlying factors such as alcohol misuse. The recommended wording reflects the wording of the Act and is clearer for enforcement purposes.
Behaving in such a way or using language	Yes	Proceed to Draft Order	There is no specific offence category, but the high levels of rowdy and inconsiderate

that causes, or is likely to cause, harassment, alarm or distress to another person			behaviour suggests that further power to control foul and abusive language may assist officers in addressing ASB.
Making unsolicited approaches, in the open air, for the purposes of face-to-face fundraising and marketing of commercial products, carried out by organisations without the prior written permission from the Council.	Yes	Vary wording so that it reads:  <i>“Approaching people for marketing or fund-raising purposes without a Licence”</i>	Behaviour such as this could be classed as inconsiderate or even begging, both of which figure high on the ASB data. Simplified wording will help interpretation by officers into the offence.
Persistent and repeated or aggressive begging	No	Does not Proceed to Draft Order	Begging / Vagrancy is prevalent in the data for the town centre and is the second most common Police complaint however, it should be noted that there is existing legislation in place, through the Begging and Vagrancy Act, to address this behaviour and this legislation is being reviewed nationally. In addition, PSPOs should only be used where it is unrealistic to expect enforcing bodies to be able to identify and deal directly with individuals through the range of existing powers

			available, such as primary legislation, injunctions or criminal behaviour orders.
Keeping dogs on a lead (other than in the designated dog exercise areas in Clifton Park)	Yes	Proceed to Draft Order	This remains relevant and is therefore proposed to continue.
Depositing and leaving litter	Yes	Proceed to the Draft Order	Whilst it is again acknowledged there are existing powers inclusion of this condition allows for clarity in communications and signage alongside wider enforcement opportunities.
Urinating or defecating in public	Yes	Proceed to the Draft Order	Urinating or defecating in the area can be seen as one sign or symptom of rowdy or inconsiderate behaviour, as well as being linked to drink and drug consumption.
Spitting	Yes	Proceed to Draft Order	Spitting can be seen as inconsiderate and impacts on the street scene and environment (albeit mainly temporarily).
Nuisance vehicles	No	Proceed to Draft Order	Nuisance vehicles appeared as the third largest complaint type for the Police.
Fireworks	No	Does not proceed to Draft Order	Consulted on but did not receive support, and an objection on the grounds of proportionality. May lead to confusion around events at Clifton Park. Fireworks do not

			figure highly on reported ASB to the Police (15 of 752 incidents in the reported period).
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## 2.7 Partner and Public Consultation

2.8 From 26 June to 6 August 2023, and subsequently between the 2 and 16 October 2023 a public and stakeholder consultation process has taken place. This included:

- Signposting of the online consultation by the Council’s Social Media platforms.
- Inclusion of the consultation in corporate newsletters including ‘Rotherham Round-Up’ Newsletter which has thousands of subscribers.
- Email to all registered private sector Landlords and Managing Agents inviting participation as Rotherham residents or Business Representatives.
- Discussion with key stakeholders within frontline practitioner meetings and Ward Briefings.
- Site visit to Barnsley Town Centre with key partners to discuss utilisation of the PSPO, common issues and share learning.
- Two emails to all Town Centre businesses registered with RiDO.
- Inclusion of the news item on a Voluntary Action Rotherham e-bulletin with 1,300 subscribers.
- Letters of invitation to reply to the key statutory agencies such as the Police, Police and Crime Commissioner, SY Fire & Rescue as well as well-established voluntary and third sector organisations such as Clifton Learning Partnership, REMA and RotherFed.
- Face to face engagement with Businesses and the Public
- Contact with Parish Councils
- Contact with all Elected Members

2.9 This consultation focussed on:

- The effectiveness of the original designation.
- Views on the effectiveness of any future designations.
- Any opportunities to vary the current order

2.10 Appendix 2 provides an overview of the Consultation responses. In total:

- 151 responses were received.
- 58% of respondents were in support of the proposed Order (11% preferred not to say), with strong support for the suggested Clauses – 83% confirming that they felt the Clauses matched key priorities for all stakeholders.
- Comments were received suggesting that there were common issues in the Town Centre with anti-social behaviour, which match the requirements of the Order.

- Some challenge was proposed by respondents in relation to resourcing and capacity for both the Council and Police.

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

- 3.1 Consideration has been given to not making a further order however, there remains a view amongst Enforcement Officers and Police Colleagues that the additional tools add value when responding to incidents of ASB.

### **4. Consultation on proposal**

- 4.1 Stakeholders and statutory agencies have been consulted between 26 June and 6 August 2023 and then further between the 2 and 16 of October 2023, the results of which have been reviewed and responded to above. This consultation is also a requirement of the relevant legislation, and the Service is satisfied the requirements have been met. Appendix 2 and Section 2.9 of this report summarises the outcomes of this consultation.

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

- 5.1 The PSPO will be designated following the Cabinet decision, subject to call-in procedures.
- 5.2 The Assistant Director of Community Safety and Street Scene alongside the Head of Community Safety and Regulatory Services are accountable for implementing the decision.

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

- 6.1 The costs of undertaking the consultation and utilising these powers, including officer time and associated legal costs, will be contained within the approved revenue budget for this Service.
- 6.2 There are no direct procurement implications arising from the recommendations detailed in this report.

### **7. Legal Advice and Implications**

- 7.1 The power to introduce a Public Spaces Protection Order is set out in the Anti-Social Behaviour, Crime and Policing Act 2014. The Act gives the Council the authority to draft and implement a Public Spaces Protection Order in response to particular issues affecting the community, provided it is satisfied on reasonable grounds that two conditions are met.
- 7.2 The first condition is that:
- (a) 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
  - (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.



- 7.3 The second condition is that the effect, or likely effect, of the activities:
- (a) is, or is likely to be, of a persistent or continuing nature,
  - (b) is, or is likely to be, such as to make the activities unreasonable, and
  - (c) justifies the restrictions imposed by the notice.
- 7.4 The Council will need to weigh up all of the evidence and consider consultation responses, in order to assess whether it is satisfied that the above conditions are met and to assess whether it is satisfied that the Public Spaces Protection Order is necessary and proportionate in the circumstances.
- 7.5 The Act sets out the ability to challenge the validity of any Order and so it is vital the Council follows the correct process in terms of the implementation of the Order and this includes the requirement to consult. The Council must carry out the necessary consultation, the necessary publicity and the necessary notification (if any), before:
- 7.6 (a) making a public spaces protection order,
  - (b) extending the period for which a public spaces protection order has effect, or
  - (c) varying or discharging a public spaces protection order.
- 7.7 The Council must consult with:
- (a) the chief officer of police, and the local policing body, for the police area that includes the restricted area;
  - (b) whatever community representatives the local authority thinks it appropriate to consult;
  - (c) the owner or occupier of land within the restricted area (this does not apply to land that is owned and occupied by the local authority and applies only if, or to the extent that, it is reasonably practicable to consult the owner or occupier of the land).
- 7.8 Proper consideration needs to be given to all consultation responses, when considering the test for the implementation of a Public Spaces Protection Order.
- The Council must also comply with the necessary publicity and notification requirements set out in the Act.
- 7.9 The necessary publicity means:
- (a) in the case of a proposed order or variation, publishing the text of it;
  - (b) in the case of a proposed extension or discharge, publicising the proposal.
- 7.10 The necessary notification requirements means notifying the following authorities of the proposed order, extension, variation or discharge:

- (a) the parish council or community council (if any) for the area that includes the restricted area;
- (b) in the case of a public spaces protection order made or to be made by a district council in England, the county council (if any) for the area that includes the restricted area.

7.11 Any Order can last for a maximum of 3 years, unless extended under the provisions of the Act and any such Order can be varied and/or discharged at any time.

7.12 The Council has complied with the legal requirements set out within the Act and referred to above. The legal test for making the PSPO has also been fully considered, details of which are set out within the body of the report. The recommendation to renew the PSPO with additional/varied clauses is based upon evidence gathered via the consultation process.

## **8. Human Resources Advice and Implications**

8.1 There are no direct human resources implications arising from the recommendations within this report.

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

9.1 Each enforcement decision is considered individually to ensure that enforcement is proportionate. In the case of young people, they cannot be issued fixed penalty notices, however, as breach of the order, as a criminal offence, could still be liable to prosecution. Generally, officers will not seek to criminalise young people due to the associated impacts and will therefore take a staged and appropriate response, involving parents or carers and other key statutory services where required. Similarly, in the case of vulnerable adults, officers may adopt differing approaches that seek to deliver on the objectives of the PSPO whilst also considering an individual's circumstance, where relevant.

9.2 The purpose of the Order is to give the Council and Police the power to address anti-social behaviour, and this will help protect Children and Young People and Vulnerable Adults who are often more directly impacted by such issues. The town centre and Clifton Park are key attractions to people of all ages and should be enjoyed without the threat of being a victim of crime and anti-social behaviour, and be safe places to visit, work and play.

## **10. Equalities and Human Rights Advice and Implications**

10.1 There are no equalities or human rights implications. A screening assessment has been carried out in Appendix 4.

## **11. Implications for CO2 Emissions and Climate Change**

11.1 An assessment has been carried out in Appendix 5.

## **12. Implications for Partners**

- 12.1 The Policy is likely to place some demands on partners where information might be required in relation to engagement and enforcement of the Order, which primarily relates to law enforcement agencies such as the Police. The legislation requires the Council to specifically consult with the local Police leadership to ensure the implications are considered. This has been completed.
- 12.2 In response to the proposals, Chief Inspector Sharron Woods sent the following by written response:
- 12.3 *“We fully support the application for a refreshed Public Space Protection Order in relation to the town centre. Regular complaints are received in relation to begging and street drinking within the locality. Feedback from officers that work within the town centre also support this with observations being that they seize alcohol under the PSPO conditions on a regular basis.*
- 12.4 *We have previously had a live Problem-Solving Plan (POP) around begging within the town centre, and currently have a POPLITE problem solving plan in relation to Street Drinking in the area- the PSPO affords SYP and Partners powers to deal with these offences, which again assures the community that action is being taken. Since 1st June 2023 there have been 27 reports of begging/vagrancy into SYP- which will be in addition to those reported directly to officers, and 34 reports of ASB/street drinking in addition to those identified by officer observations or reported directly into officers.*
- 12.5 *The continuation of this PSPO would allow SYP and partner agencies the tools to deal with such complaints under these powers and also reassure the community that action will be taken”.*

## **13. Risks and Mitigation**

- 13.1 Choosing not to renew the Order would reduce the tools available to the Council and partners to combat ASB in the town centre. It may also impact negatively on community confidence around the perceptions of crime and ASB.
- 13.2 In order to allow a more versatile resolution of ASB and crime the Council and partners should also consider the application of other remedies from the ASB Toolkit under the same legislation. These tools can include Acceptable Behaviour Contracts (ABCs), Civil Injunctions, Community Protection Notices and Statutory nuisance law (where the relevant requirements are met).

- 13.3 The capacity of partners to effectively enforce the provisions of the Order has been an issue during the current designation. Any future Order must have the commitment of all partners to undertake effective enforcement of its powers. Otherwise, the designation will raise resident expectations and risks reputational damage of all partners.
- 13.4 More broadly, failure to effectively meet key responsibilities and obligations will negatively impact on the Council's image whilst failing to deliver national and local priorities. These risks will be managed through robust implementation and oversight, and the proposals have been supported by the Police.

**14. Accountable Officers**

Emma Ellis, Head of Community Safety and Regulatory Services

Approvals obtained on behalf of Statutory Officers: -

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp	06/11/23
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	01/11/2023
Assistant Director, Legal Services (Monitoring Officer)	Phil Horsfield	01/11/2023

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