

**Committee Name and Date of Committee Meeting**

Cabinet – 16 December 2024

**Report Title**

Borough wide and Town Centre Public Space Protection Orders (PSPO's)

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

Yes

**Strategic Director Approving Submission of the Report**

Andrew Bramidge, Strategic Director Regeneration and Environment

**Report Author(s)**

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**Ward(s) Affected**

Dog Fouling PSPO – Borough Wide  
Town Centre & Clifton Park – Boston Castle

**Report Summary**

The current Town Centre and Clifton Park Public Spaces Protection Order (PSPO) and the Borough-wide Dog Fouling Public Spaces Protection Order were renewed in January 2024 for a period of 12 months. On 16<sup>th</sup> September 2024, following a review of the available evidence, Cabinet authorised a public consultation to run from the 17<sup>th</sup> September 2024 to 30<sup>th</sup> October 2024. The purpose of the consultation was to seek the views of the public and partners in relation to the existing PSPOs and the proposed conditions that would be considered as part of any new orders.

The report outlines the consultation and responses which, in summary, has shown support for the PSPOs being in place, recognising they are an important tool in providing assurance around community safety matters. As such, this report recommends the renewal of the two PSPOs in place for a period of 3 years from January 2025. For both PSPOs, over half the respondents confirmed they had confidence in the effectiveness of future Orders, while providing some challenge around the ability of the Police and Council to enforce the Orders. As a result of this feedback, this report also outlines further steps to provide additional assurance and oversight on the application of the tools by both the Police and Council, subject to the renewal of the Orders. It should be noted that the wording around the prohibition on consumption of alcohol has altered based on legal advice in order to enhance the ability to enforce as opposed to material change regarding the intent. This is the only change from the previous version of the Order.

## **Recommendations**

That Cabinet:

1. Approve the renewal of the Town Centre and Clifton Park Public Spaces Protection Order (Appendix 4) for a period of three years upon expiry of the current Order in January 2025.
2. Approve the renewal of the Borough wide Public Spaces Protection Order (Appendix 5), specifically dealing with dog fouling, for a period of three years upon expiry of the current Order in January 2025.

## **List of Appendices Included**

Appendix 1 Public Spaces Protection Orders Consultation Activity Tracker  
Appendix 2 Formal letter of support and comment South Yorkshire Police  
Appendix 3 Consultation Response Data Summary  
Appendix 4 Town Centre & Clifton Park Draft Order  
Appendix 5 Boroughwide Dog Fouling Draft Order  
Appendix 6a Initial Equality Screening Assessment (Part A)  
Appendix 6b Initial Equality Screening Assessment (Part B)  
Appendix 7 Carbon Impact Assessment

## **Background Papers**

[Cabinet Report – 16 September 2024 – authorisation to launch consultation on both Orders.](#)

Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers  
Statutory guidance for frontline professionals, Home Office, March 2023

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

None

## **Council Approval Required**

No

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

No

## **Borough wide and Town Centre Public Space Protection Orders (PSPO's)**

### **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.
- 1.2 Tackling anti-social behaviour and environmental crime are key objectives for the Council, linking to a number of the Council Plan Themes including Every Neighbourhood Thriving; People are Safe Healthy and Live Well and a Cleaner, Greener Local Environment.
- 1.3 On 16<sup>th</sup> September, Cabinet approved a 6-week public consultation exercise on proposals to extend, vary or discharge the PSPOs in relation to the Town Centre & Clifton Park and on a Boroughwide basis in relation to dog fouling.
- 1.4 This report provides the outcome of the consultation and statistical data which supports the proposals for extending the PSPOs and seeks the approval of Cabinet to adopt the drafted Orders as set out in Appendix 4 and Appendix 5.

### **2. Key Issues**

- 2.1 The Anti-Social Behaviour, Crime and Policing Act 2014 provides for PSPOs, to be made for a maximum period of three years.
- 2.2 The Act requires that, where Orders are to be introduced or extended, consultation must be undertaken with:
  - The Chief Officer of Police, and the local policing body, for the police area that includes the restricted area;
  - Whatever community representatives the local authority thinks it appropriate to consult;
  - The owner or occupier of land within the restricted area.
- 2.3 In addition, the Act also stipulates that necessary publicity must be undertaken which means:
  - In the case of a proposed new order or variation, publishing the text of it.
  - In the case of a proposed extension or discharge, publicising the proposal.
- 2.4 The consultation authorised by Cabinet on 16<sup>th</sup> September 2024 looked to build on the statistical data provided in relation to ASB and crime related data from both the Council and South Yorkshire Police which provides a strong evidence base for both the PSPOs proposed within this report.
- 2.5 There has been successful informal use of the provisions of the PSPO to deliver desired outcomes but without issuance of fines. For example, in June 2024, South Yorkshire Police officers used the Town Centre Order on

9 occasions to require alcohol to be surrendered. In May and June 2024, 10 interactions with members of the public where advice to refrain from drinking in public places had been given and positively responded to which had been logged by WISE, the Council's partnering enforcement service provided by Doncaster City Council. While these instances do not result in formal action, they are a positive use of the Order.

- 2.6 WISE, the Council's partnering enforcement service provided by Doncaster City Council, have agreed to accept authorisation to enforce the Orders in place. This was an addition to previous arrangements of this type which have historically included littering and dog fouling offences. This took effect from April 2024. This provides experienced, uniformed and equipped officers able to take effective action against the Orders. 11 Fixed Penalty Notices have been issued as a result of directed patrols between June 2023 and June 2024 in relation to dog fouling.
- 2.7 External funding from the Police and Crime Commissioner's Office (PCC) was utilised within 2023/24 and has been extended by the South Yorkshire Mayor in 2024/25 to provide additional high visibility patrols and activity by the Council and Police. Direction has been given to officers undertaking these patrols to use the PSPO tool to resolve identified issues as they arise. Additional patrols are being supplied in 6 ASB hotspots currently, some of which includes localities covered by the Orders in force.

### 3. Options considered and recommended proposal

- 3.1 One option was that the Council not extend the existing PSPOs due to expire in January 2025. This would mean that Council Officers and the Police could not continue to take action under the powers provided by the PSPOs. As noted elsewhere within the report, the evidence base for continuing levels of anti-social behaviour is strong and the proposals have been supported through the public consultation. As a result of the evidence available and consultation responses, **this is not the recommended option.**
- 3.2 Also under consideration was a variation to the Orders should further prohibitions be required and supported by the quantitative data both in reported ASB and Crime data and the survey responses. As noted within section 4, some feedback through the consultation and evidence available related to aggressive begging being an issue of concern. Whilst this was considered for inclusion, it was noted that other legal powers exist and the numbers of individuals involved is relatively small and require bespoke approaches and interventions. As a result of the evidence available and consultation responses, **this is not the recommended option.**
- 3.3 The statistical data from the Council and Police in September 2024 gave a strong evidence base for the Orders. The need for tools to tackle the associated issues already contained within both Orders has been strongly supported in the consultation process. As such, the recommendation is to extend the current Orders, in their current form, for the maximum period of three years to January 2028. The challenge laid down by a high proportion

of the respondents is around resourcing and applying the Orders formally, and so further steps are required and outlined in this report to provide additional oversight and assurance. **This is the recommended proposal.**

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

- 4.1 Following approval at Cabinet to proceed with the consultation process, an engagement programme was implemented between 17<sup>th</sup> September 2024 and 30<sup>th</sup> October 2024.
- 4.2 The main method of engagement was through surveys and internet-driven communication using information published on the Council's website where users were invited to complete an online survey. Hard copy questionnaires were also made available on request, and hand-delivered to Town Centre businesses in order to promote wide responses. A completed activity tracker which outlines the steps taken to gather responses can be seen in Appendix 1.
- 4.3 In accordance with statutory guidelines detailed under Section 72, Anti-Social Behaviour, Crime and Policing Act 2014, the Council 'must' undertake consultation with the affected parties. As part of this process, the Council consulted directly with local residents and statutory consultees which included the Chief Inspector of Rotherham Neighbourhood Policing. A letter of support and comment can be found in Appendix 2.
- 4.4 The Council also notified all Ward Councillors and Parish Councils by a written briefing and an offer of meetings/workshops should it be required. The Cabinet Member was updated prior to the consultation and at its midpoint.
- 4.5 Throughout the consultation process the Council received a total of 271 individual responses from members of the public or businesses comprising of feedback about the PSPOs. 109 responses were received with reference to the Boroughwide Order, and 162 in relation to the Town Centre & Clifton Park Order. Appendix 3 gives summary data to the responses received.
- 4.6 Of the 109 responses received in relation to the Boroughwide PSPO, the respondents were self-described as:
  - 64 Residents
  - 19 Business Representatives
  - 12 Tenants
  - 4 Visitors
  - 4 Landlord
  - 6 Other
- 4.7 Of the 162 responses to the Town Centre and Clifton Park consultation, exactly 50% were residents. A stronger response was gathered from businesses than in previous consultation exercises (43 in 2024 and 30 in 2023). Businesses also provided more qualitative information in their responses. This shows that the model of more robust, direct engagement

with businesses was successful. The respondents to this element of the consultation were self-described as:

- 81 Residents
- 43 Business Representatives
- 20 Tenants
- 8 Visitors
- 3 Landlords
- 7 Other

#### 4.8 **Dog Related ASB – Boroughwide**

33% of the respondents felt previous Orders had impacted positively on dog fouling in the Borough, while 53% thought a future Order would increase effectiveness in combatting dog related ASB. 99 of 109 responses cited experiences of dog faeces which had not been removed. Dogs off a lead were also reported in 83 of the responses. Issues with dogs in Cemeteries and children's fenced play areas were less reported. Supplementary data from the Police received within the consultation process showed that investigations of Dangerous Dogs within the Borough remained low in the previous 4 years. For this reason, it is not felt appropriate to bring forward further controls on dogs on leads or prohibiting them from certain areas at this stage. The Police are confident that where dogs are deemed dangerous or of an impacted breed (i.e. XL Bully) primary legislation exists to assist intervention. The draft Order (Appendix 5) will include the requirement to remove Dog Faeces forthwith, as it has done since its first introduction in 2017.

#### 4.9 **Town Centre & Clifton Park ASB**

A return of only 20% of respondents felt that the previous Order had been effective in reducing ASB in the area. However, over half felt a future Order might assist in the same. This emphasises that both the Police and Council have a challenge to address the perception of visibility and achieve formal outcomes from the Order via the capacity highlighted in the September cabinet report. This would give further confidence and reassurance to the public around the tackling of ASB in the Town Centre in particular. This is further addressed in the Risks and mitigation section of this report.

4.10 The Clauses presented to the public as being possible to be included in the Order drew strong support (140 of 162 respondents stating they matched priorities). In terms of experiences of ASB, foul and abusive language or rowdy or inconsiderate behaviour as a result of on street consumption of alcohol were the biggest single factors. This matches previously provided Police data around rowdy or inconsiderate behaviour that this Order should focus on.

4.11 While aggressive or persistent begging was cited by a high proportion of respondents (112 of 162), Police conveyed in their formal response, that evidencing begging where it reached a definition of aggressive or persistent was difficult due to its subjective nature. Alternative tools to deal with the symptoms of begging (financial hardship, homelessness, drug and alcohol use) should be addressed to support individuals, in conjunction with support services. In any case, behaviour which could include persistent or

aggressive unsolicited approaches could be elsewhere defined in the Order and be dealt with if appropriate. For example, the Order proposes to prohibit any behaviour that causes, or is likely to cause, alarm, distress or harassment to another person. An officer investigating a complaint or observing persistent or aggressive begging that meets this definition would be empowered to deal with the matter in this way – though officers are encouraged to consider the response to such matters on a case by case basis to ensure that it is reasonable and proportionate.

4.12 The Police in their formal response as the jointly authorised agency in enforcement of the Order wrote in support of the Order, identifying it as a key tool particularly in the Town Centre (Appendix 2).

4.13 In addition to the above responses, key themes that emerged from the consultation were:

- Increased patrols by uniformed officers i.e. Police and Council Officers and particularly request for the Order to be enforced.
- Concerns relating to feelings of safety and wider crime and anti-social behaviour types in specified areas.
- Environmental concerns.

4.14 The rationale for the proposed conditions within the PSPO following the consultation is set out below and full details of the Order are shown in Appendix 4.

Condition –	In Current Order?	Recommendation	Rationale
In this area any person carries out acts from which they are prohibited, commits an offence, namely:			
Continuing to consume alcohol when required to stop doing so by any authorised officer, save for licensed premises or at a licensed event.	Yes	Vary wording so that it reads: <i>The consumption of alcohol and/or the possession of an open container containing or purporting to contain alcohol in a public place other than at licensed premises or at a licensed event.</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 has been revised based on legal advice in order to enhance the ability to enforce rather than material change regarding the intent.

Behaving in such a way or using language that causes, or is likely to cause, harassment, alarm or distress to another person.	Yes	Proceed to the Draft Order	There is no specific offence category, but the high levels of rowdy and inconsiderate behaviour suggests that the continued power to control foul and abusive language may assist officers in addressing ASB.
Approaching people for marketing or fund-raising purposes without an appropriate Licence.	Yes	Proceed to the Draft Order	Behaviour such as this could be classed as inconsiderate or even begging, both of which figure high on the ASB data.
Failing to keep a dog on a lead (other than in the designated dog exercise areas in Clifton Park)	Yes	Proceed to the 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, other than within designated public toilets.	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 saliva or any other product from the mouth.	Yes	Proceed to the Draft Order	Spitting can be seen as inconsiderate and impacts on the street scene and environment



			(albeit mainly temporarily).
Being in charge of a motor vehicle and using it in a way to cause a nuisance to others or anti-social behaviour.	Yes	Proceed to the Draft Order	This has lessened as a factor in consultation responses, but it still remains a significant factor in reports of ASB. .

## 5. Timetable and Accountability for Implementing this Decision

- 5.1 The PSPOs will be designated following the Cabinet decision, subject to call-in.
- 5.2 The Assistant Director of Community Safety and Street Scene is accountable for implementing the decision.

## 6. Financial and Procurement Advice and Implications

- 6.1 The majority of this consultation exercise was undertaken on-line, so costs associated with this process were limited to IT costs and minimal printing and postage costs. The overall cost of this consultation exercise has been contained within the Service's approved revenue budget.
- 6.2 There are no significant procurement implications associated with the recommendations detailed in this report. The costs of operating the Orders should be directed through current internal, partnership or contracted arrangements.

## 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.
- 7.1.1 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.
- 7.1.2 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.

7.2 The Council will need to fully consider all evidence gathered as a result of the consultation process in order to be satisfied that the above conditions are met and to be satisfied that the Public Spaces Protection Order is necessary and proportionate in the circumstances. Any requirements or prohibitions imposed must be reasonable.

7.3 The Act itself 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.

7.3.1 The Council must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before:

- (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.

7.3.2 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.

7.4 The Council must also comply with the necessary publicity and notification requirements set out in the Act. 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;

7.5 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.

7.6 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.

7.7 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.

7.8 The recommendation to renew both Orders is based upon evidence gathered via the required consultation process.

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

8.1 There are no direct Human Resources implications arising from this report

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

9.1 Any activity in relation to enforcement is delivered in line with the Council's Enforcement Policy, which gives consideration to appropriate enforcement approaches in relation to Young People or Vulnerable Adults. Additional information relating to vulnerable adults that arises as a result of the consultation is outlined in the main body of the report.

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

10.1 An Equalities analysis has been included at Appendices 6a & 6b.

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

11.1 There is a small carbon impact arising from the possible increase in vehicles arising from this report. An assessment is contained at Appendix 7.

## **12. Implications for Partners**

12.1. South Yorkshire Police are a key partner in the delivery of the requirements of Public Spaces Protection Orders and have commented in support of the Orders. Further work is required between both the Council and Police to provide scrutiny on the resourcing and formal enforcement of the Orders.

## **13. Risks and Mitigation**

13.1 The consultation has highlighted some challenges around the perceived lack of visibility and enforcement of the Orders by both the Police and Council. Robust and regular reviews of the performance of the Orders is held by officers of at least management rank within both the Council and the Police. This will help co-ordinate joint activity and focus resources in hotspot areas and to address particular community safety issues. This stakeholder group should be noted in project plan style and agree actions to improve performance against the Orders, as well as sit alongside already established operational groups such as Tasking and Ward Briefings. A dashboard of performance information across the two organisations will be developed in order to support enhanced robust oversight.

- 13.2 The Council and the Police are developing additional plans to ensure enforcement is appropriately prioritised and outcomes relating to use of the order are communicated effectively to seek to improve resident, business and visitor confidence.

**14. Accountable Officers**

Sam Barstow Assistant Director, Community Safety and Street Scene

Approvals obtained on behalf of Statutory Officers: -

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp OBE	02/12/24
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	22/11/24
Assistant Director, Legal Services (Monitoring Officer)	Phil Horsfield	13/11/24

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