

Report to:	EXECUTIVE CABINET
Date:	26 October 2022
Executive Member:	Councillor Vimal Choksi – Executive Member (Towns and Communities)
Reporting Officer:	Emma Varnam, Assistant Director, Operations & Neighbourhoods
Subject:	ASHTON TOWN CENTRE PUBLIC SPACE PROTECTION ORDER
Report Summary:	This report seeks to introduce a Public Spaces Protection Order as set out in Appendix 2 for the area shown in Appendix 1 , which has been designed to help address anti-social behaviour in Ashton town centre.
Recommendations:	That the proposed public space protection order be adopted for Ashton Town Centre.
Corporate Plan:	Adoption of the proposed PSPO contributes to the corporate priority of living well
Policy Implications:	The proposed PSPO supports the five objectives contained within the Tameside Community Safety Strategy 2022-2025, specifically in relation to reducing crime and anti-social behaviour.
Financial Implications: (Authorised by the statutory Section 151 Officer)	<p>The report sets out details for the implementation of a Public Space Protection Order in Ashton town centre.</p> <p>Any financial implications arising from the implantation of the order will be financed by the existing 2022/23 revenue budget of the Community Safety service within the Place Directorate.</p> <p>An example of related expenditure includes (but is not restricted to) additional signage that details activities which are restricted and the financial penalties that will be imposed for breaching the order.</p> <p>It is advised that a report is presented to Members at a later date that details the impact of the order and if there has been a reduction in the levels of anti-social behaviour in the town centre.</p>
Legal Implications: (Authorised by the Borough Solicitor)	<p>There has been a good level of response to the consultation undertaken under Section 72 of the Anti-Social Behaviour and Crime & Policing Act 2014 (the 'Act'). An overwhelming majority (93.3%) support the making of a Public Space Protection Order.</p> <p>Members must be satisfied on reasonable grounds that two conditions set out in Section 59 of the Act are met.</p> <p>The first condition is that—</p> <p>(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</p>

(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.

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.

When deciding whether to make a Public Spaces Protection Order under Section 59 of the Act, a local Authority must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights. The Local Government Association has also produced useful guidance in February 2018, *Guidance for Councils on Public Spaces Protection Orders* to which the Council, in conducting the exercise, should have regard before making the order which can be found here:

[Public spaces protection orders: guidance for councils \(local.gov.uk\)](https://www.local.gov.uk/public-spaces-protection-orders-guidance-for-councils)

PSPOs can be challenged under the Act on the grounds that the local authority did not have the power either to make the Order or include particular prohibitions or requirements, or that proper processes had not been followed as prescribed by the legislation. Challenges must be made to the High Court within six weeks of the Order being made, and by an individual who lives in, regularly works in or visits the restricted area. The High Court can uphold, quash or vary the PSPO and may decide to suspend the operation of the PSPO pending the verdict. As with all orders and powers, the making of a PSPO can be challenged by judicial review on public law grounds within three months of the decision or action subject to challenge.

Carrying out an EIA on both the order itself and the consultation process was recommended to comply with the requirements of the public sector equality duty. Full and separate consideration should be given to the effect of the prohibitions on those directly and indirectly affected. Annual monitoring of the impact and effectiveness of the PSPO is welcomed given the notable concerns identified at 5.6 of the report. Performance management will also be important when considering any extension beyond the initial three-year period of duration or variation to the Order.

The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 sets out the minimum publication requirements. A local authority must publish the order on its website; and erect sufficient signage on or adjacent to the public place to which the order relates drawing attention to the fact that an order has been made and its effect.

Risk Management:

Local authorities can be subjected to a legal challenge on the introduction of a PSPO, but the risk of a challenge has been minimised through a comprehensive public consultation and consideration of an equality impact assessment.

Access to Information:

Appendix 1:	A copy of the map covered by the order
Appendix 2:	draft copy of the Public Spaces Protection Order
Appendix 3:	Equality Impact Assessment has been completed to consider the impact of the order and mitigations put in place to support the community
Appendix 4:	Written responses to consultation
Appendix 5:	response to the consultation from the Greater Manchester Deputy Mayor the Rt. Hon Baroness Beverley Hughes
Appendix 6:	Equality Impact Assessment relating to the consultation on the PSPO

The background papers relating to this report can be inspected by contacting Dave Smith, Partnerships Manager



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1. INTRODUCTION

- 1.1 The Anti-Social Behaviour, Crime and Policing Act 2014 introduced a number of tools and powers for use by Councils, and partners, to address anti-social behaviour (ASB) in their respective areas. Public Space Protection Orders are one of these tools.
- 1.2 Section 59 of the Act gives Councils the authority to implement Public Space Protection Orders in response to particular issues affecting their communities, provided certain criteria and legal tests are met.
- 1.3 Councils can use Public Space Protection Orders to prohibit specified activities, and/or require certain things to be done by people engaged in particular activities, within a defined public area. Public Space Protection Orders differ from other tools introduced under the Act as they are council-led, and rather than targeting specific individuals or properties, they focus on the identified problem behaviour in a specific location.
- 1.4 The legislation provides for restrictions to be placed on behaviour, which apply to everyone in that locality, with the possible use of exemptions. Breach of a Public Space Protection Order without a reasonable excuse is an offence punishable by:
 - i. A £100 fixed penalty notice
 - ii. A fine of up to level 3 (£1000) on the standard scale on conviction
- 1.5 Orders can be introduced in a specific public area where the local authority is satisfied on reasonable grounds that the following conditions have been met;
 - The behaviour has had, or is likely to have, a detrimental effect on the quality of life of those in the locality;
 - The behaviour is, or is likely to be, persistent or continuing in nature;
 - The behaviour is, or is likely to be, unreasonable; and
 - The order justifies the restrictions imposed.
- 1.6 Councils can issue a Public Space Protection Order after consultation with the Police, Police and Crime commissioner, the owner of the land in the restricted area and any other community representatives they see fit.
- 1.7 It is recognised that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations between persons with different protected characteristics.

2. ASHTON-UNDER-LYNE TOWN CENTRE

- 2.1 In March 2020, the UK entered a national lockdown due to the Covid-19 pandemic. In the subsequent two years, lockdowns were lifted, then re-imposed; social restrictions lessened and re-imposed. The impact of this period has had significant effects on individuals, business and town centres. During the periods of lockdown, anti-social behaviour activity naturally decreased in Ashton Town Centre. However, as restrictions lifted and the town centre became busy again, a subsequent rise of reports of anti-social behaviour occurred.
- 2.2 As a rise in anti-social behaviour was occurring, Greater Manchester Police and Tameside Council began receiving complaints from members of the public. The complaints related to intoxicated individuals consuming alcohol & other substances and causing a nuisance.
- 2.3 The reports of anti-social behaviour received by Tameside Council have come from members of the public, constituents reporting to the office of the Right Honourable Angela Rayner MP and from local businesses, who have also complained to Greater Manchester Mayor Andy Burnham on these matters.

- 2.4 It is clear that the groups of people engaged in anti-social behaviour in Ashton town centre are having a detrimental effect on the town as whole. Members of the public have voiced their concerns around the plight of the town. Local business owners are aggrieved & have stated that the anti-social behaviour is a contributory factor to potential customers not visiting the town centre.
- 2.5 Between April 2021 and February 2022, Greater Manchester Police recorded 78 crimes on Ashton Town Centre that contain an anti-social behaviour element. It is important to note that these are reports which have been 'crimed' in line with National Crime Recording Standards. Consideration should also be given to the fact that not all instances of individuals loitering in the town centre or causing a nuisance are reported to the police.

Type	Number of Incidents
Public Order	18
Violence without injury	19
Violence with injury	9
Possession of Drugs	19
Criminal Damage and arson	7
Business and community burglary	1
Possession of weapon	1
Stalking and harassment	1
Misc crimes against society	2
Trafficking of Drugs	1

3. THE PROPOSED PUBLIC SPACES PROTECTION ORDER

- 3.1 The proposal for consideration is the introduction of a Public Spaces Protection Order, which would be applicable to the proposed restricted area identified in the map attached to the order. A copy of the map covered by the order is attached at **Appendix 1**.
- 3.2 The order would prohibit the following activities:
- the consumption of alcohol or the possession of an open alcohol container;
 - the use or possession of other intoxicating substances as defined by the Psychoactive Substances Act 2016;
 - discarding a hypodermic needle or syringe
 - urination or defecation;
 - health and/or safety risks including obstruction of doorways and stairwells and;
 - the erection of temporary structures within the restricted area.
- 3.3 The order will also require the provision of information upon request by an authorised person reasonably suspected of breaching any of the prohibitions or requirements in this order within the restricted area.
- 3.4 The order would require clear signage to be placed at every point of access to the relevant restricted area, detailing those activities, which are restricted & outlining the penalties for breaching the order (£100 fixed penalty or £1,000 fine following summons).
- 3.5 In addition to the signage, the Council, in partnership with GMP, will develop a communications strategy which ensures that the order is publicised very clearly in local and social media to ensure maximum public awareness of the order.
- 3.6 The order would be enforced by officers from Greater Manchester Police (both police officers and police community support officers) and any appeal would be through GMP's own appeals system.

- 3.7 A draft copy of the Public Spaces Protection Order is attached at **Appendix 2**.
- 3.8 An Equality Impact Assessment has been completed to consider the impact of the order and mitigations put in place to support the community. This EIA is attached at **Appendix 3**.
- 3.9 A further Equality Impact Assessment relating to the consultation on the PSPO is attached at **Appendix 6**.

4. CONSULTATION

- 4.1 Section 72 of the Anti-Social Behaviour, Crime and Policing Act 2014 provides that Local Authorities must engage in a consultation process prior to the introducing a Public Spaces Protection Order.
- 4.2 Local Authorities are obliged to consult with;
- The local chief officer of police
 - The police and crime commissioner
 - Owners or occupiers of land within the affected area where reasonably practicable
 - Appropriate community representatives
- 4.3 On the 18 August 2022, the Executive Cabinet Member for Town & Communities – Councillor Vimal Choksi MBE gave notice of decision to commence a 6-week public consultation period.
- 4.4 The consultation period commenced on Monday 22 August 2022 and closed on Monday 3 October 2022. The consultation was held on Tameside Councils 'Big Conversation' website. As part of the consultation process, businesses in Ashton-under-Lyne town centre received hand-delivered letters inviting them to make comment on the consultation. There were numerous public notices placed around the town centre informing of the consultation with a QR code taking people directly to the online consultation page.
- 4.5 The consultation was also advertised via Tameside Councils social media platforms and through the Tameside Independent Advisory Group, a forum with many community representatives.

5. CONSULTATION RESPONSE

- 5.1 482 people responded to the consultation with a written comment. Those written comments are attached at **Appendix 4**.
- 5.2 Of these responses 90.3% (or 9 out of 10 people) supported the introduction the Public Space Protection Order.
- 5.3 3.1% (or 3 in every 100) were opposed to the Public Space Protection Order.
- 5.4 6.6% provided a response, which neither supported nor opposed the introduction of the Public Space Protection Order, but passed comment.
- 5.5 40 people completed the consultation, but provided no written response.
- 5.6 Of those in favour of the Public Space Protection Order being introduced, 10.8% raised some notable concerns on a number of thematic areas:

- Comments were made around policing the PSPO, specifically because of a perceived lack of visible policing in the town centre
- Concern was expressed that the PSPO may push the problems in to other areas in the borough.
- Some respondents expressed concern that the PSPO targeted individuals who are vulnerable & in need of support, rather than enforcement.
- Reference is made to the potential for victimising those who are jobless, homeless or substance abuse misusers, many of whom may not be able to pay an imposed fine.

5.7 As a result of these comments, the Community safety & Homelessness Service will conduct an annual review of the impact of the PSPO covering its effectiveness in tackling ASB as well as the potential impacts suggested by some of the respondents.

5.8 Tameside Council also received a response to the consultation from the Greater Manchester Deputy Mayor the Rt. Hon Baroness Beverley Hughes who provided her support for the proposals to introduce the Public Space Protection Order as proposed. A copy of this letter is attached at **Appendix 5**.

5.9 One respondent to the consultation suggested that the area covered by the PSPO should be extended to include the field and railway lines on the opposite side of Park Parade, incorporating the area adjacent to the Sea Cadets and the waste ground on Lower Wharf Street. This suggestion was made due to the anti-social behaviour, which already exists in this location, and the likelihood that the PSPO may push some offenders into this area, where they would be able to continue their behaviour.

5.10 This matter has been taken into account and the map of the proposed PSPO area has been extended to include these areas. The map is attached at **Appendix 1**.

6. RECOMMENDATIONS

6.1 As set out at the front of the report.