

BOROUGH OF KETTERING

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Report Originator	Shirley Plenderleith Head of Community Services	<i>Fwd Plan Ref No:</i> A15/006	
Wards Affected	William Knibb, Northfields, All Saints, Ise Lodge, Piper's Hill	9 December 2015	
Title	PUBLIC SPACES PROTECTION ORDER		

Portfolio Holder: Cllr Lloyd Bunday

1. PURPOSE OF REPORT

To seek the consent of the Executive Committee to the implementation of a Public Spaces Protection Order

2. INFORMATION

- 2.1 At its January meeting, the Executive committee agreed that consultation be carried out on the potential coverage of a Public Spaces Protection Order (PSPO) for parts of the wards of William Knibb, Northfield and All Saints. The full consultation documents can be found at Appendix C. A map of the proposed area can be found at Appendix D.
- 2.2 A PSPO is a new provision, created by the 2014 Anti-social Behaviour, Crime and Policing Act. It is intended to deal with a particular nuisance or problem in a defined 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. The aim is to stop individuals or groups committing anti-social behaviour in public spaces.
- 2.3 A PSPO would enable an authorised officer (a police officer, PCSO, or authorised Council officer) to issue a warning to any individual asking them to cease activity. The PSPO does not criminalise anyone. It provides a three step process to remedy a situation.
- I. A warning is issued and an activity asked to stop
 - II. If the activity continues a Fixed Penalty Notice (FPN) may be issued and paid
 - III. If the FPN is not paid the matter may go through the Court system

If the fee is not paid before the case is heard in Court only then a conviction may result. Payment can be made right up until the case is heard.

This process is similar to that in place to deal with car park contraventions and failure to pick up litter or after a dog fouling. **The action itself is not a criminal matter**, but failure to heed a warning, then failure to cease an activity then not pay a subsequent fixed penalty notice does involve the court system.

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Any such conviction would be classed as low level, similar to a parking fine, and would be spent after a period of 5 years, or less, if the offender is a young person. In itself, therefore, the creation of a PSPO does not create new criminal offences; it enables anti-social behaviour to be addressed where it is causing, or is likely to cause distress to others. The “criminal status” of issues is exactly the same as it is for littering and dog fouling.

- 2.4 Restrictions and requirements can be placed on an area where activities have or are likely to have a detrimental effect on the quality of life of local people, is persistent or continuing in nature and is unreasonable. These can be blanket restrictions or requirements, or can be targeted against certain behaviours by certain groups at certain times. The guidance is not specific on what can be included in a PSPO. The potential for their use appears to be very broad and flexible to allow a council to cover individual circumstances in its area.
- 2.5 Members are reminded that in making any decision they need to be mindful of their legal obligations as set out in Section 8 of the report.
- 2.6 In Kettering the reasons for putting a PSPO in place are twofold:-
- a) Replacing existing orders without lapse – existing orders which regulate dog fouling and on street alcohol consumption cease to have effect in 2017, and a PSPO will be **the only way** in which these restrictions can remain in place thereafter, it was felt helpful to have an early PSPO in place well ahead of it being the only tool available.
 - b) Address other concerns – PSPOs are framed very widely to allow localities to identify activities which are seen to be anti-social in their effect and to take action to regulate them. The Council has over the years had complaints about a variety of issues – most notably about skateboarding, (in the town centre, at Morrison’s car park and library steps), begging, aggressive charity collections, misuse of car parks (public and private) for disruptive social events. The police have also had complaints about various parking and highway obstruction issues, and partners additionally have concerns about the welfare of unaccompanied young people under 18 in the town centre at night. The consultation was therefore carried out to seek views on the proposals.
- 2.7 This report outlines the substance of the issues. For those Members interested the draft Order is attached at Appendix B together with an overview of the supporting evidence at Appendix A. The final wording of the Order may be subject to some changes following further legal advice.

3. Matters proposed to be included

- 3.1 The list below outlines the areas proposed to be covered by the PSPO
- I. **Assertive/aggressive (commercial or charity) collection or soliciting for money on the street**

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This inclusion of this activity is not intended to make it difficult for normal charitable collections or activities in the great tradition of generosity to good causes. Where the activity becomes persistent and intimidating to visitors to the town centre current legislation is not flexible enough to deal effectively with it, despite complaints made by the public.

II. Consumption of alcohol on the street, to be continued and widened. (Excludes areas where a temporary or permanent licence is in place)

Current Designated Public Places Orders will expire in 2017. Including this in the proposed PSPO enables partners to continue to manage the issues when they arise.

III. Those under 18 in the area 11pm-6am

A small number of very young people unaccompanied by an adult are regularly found by the police in the town centre very late at night. Currently there is very little that can be done. This would enable these young people to be safely returned to their homes and would address safeguarding and Child Sexual Exploitation concerns.

IV. Driving/using a motor vehicle in an anti-social manner

A number of car owners meet in Kettering. Whilst the majority of these are low key and do not cause any problems, on occasions, this has not been the case. Nuisance and dangerous activities could be better managed using these powers.

V. Sale of vehicles on public land

Limited and very specific powers exist under other legislation aimed at dealing with this type of activity, however individuals are able to exploit gaps in the legislation leaving the appropriate authorities with limited ability to deal with what is unregulated business activity.

VI. Obstructing the highway and/or loitering

The police have concerns about the number of people who use the roadways in Kettering as a place to congregate and socialise, particularly at night. This activity is linked to the night time economy. There are concerns that where people and cars may be in conflict accidents will arise. The inclusion in the PSPO would enable the police to deal more effectively with individuals who refuse to move when requested to do so.

VII. Anti-social parking

There are areas particularly in Kettering where wide streets allow for cars to double park. As this does not "obstruct" the highway there are limited ways in which to deal with these situations. The police are concerned about this activity as it can cause a narrowing of the roadway, and increase the risk of accidents and incidents. Such parking patterns have the potential to inhibit emergency vehicles, many of which have a wide profile.

VIII. Unauthorised distribution of printed material/leaflets

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Current legislation requires that a problem has to be proven before it can be tackled. The inclusion of this would allow for any incidents to be tackled when they arise. This would enable better management of the public space, and the ability to ensure that any activities that were not agreed could be tackled immediately and the impact of any litter reduced.

In general, as the consultation feedback illustrates that the majority of people were satisfied with the proposed content, two areas attracted the majority of the feedback received. These were begging and the use of skateboards.

IX. Misuse of skateboards, bicycles and scooters

- 3.2 As the subsequent paragraphs illustrate, the skateboarding community have been assiduous in making their views known; however the great majority of local residents have not indicated their views. The Council has had feedback from partner agencies in relation to begging and the use of skateboards in the town centre. The PSPO would enable the police and local authority to deal with these types of incidents if they were included.
- 3.3 Members should note that the town centre has been designed with pedestrians in mind, not those using wheeled vehicles, and as such inclusion may present a hazard to other users. The principle of preventing cycling through the pedestrian area of town, for example, has already been accepted and embedded within the current traffic orders. The principle being not that the cycle is unwelcome rather that it operates at a potentially different speed and manoeuvrability and yield-ability when compared to people. This is particularly true when compared to very young children and older people. There are parallels with skateboards.
- 3.4 Specific, designed provision for skateboarders in particular has been invested in by the Council, with the Ise skate facility. It may be that Members could consider the ability to open this for longer, providing floodlighting (subject to funding availability) and a shelter. This would enhance the facilities and ensure that the skateboarders have the option of using it later into the evening, which they have said is a contributory factor in the use of the Market Place area. In light of this, the skateboarders have questioned why the proposals relating to skateboarding need to remain in the PSPO.
- 3.5 Discussions have been held regarding the Morrison's car park; the company have plans in place to make this less attractive to skate boarders. However they remain concerned that there is a small group of users who refuse to leave the area even when requested to do so, and become aggressive.
- 3.6 Members have a number of options when considering the proposals in relation to skateboarding and the use of scooters and bicycles.

Option One	For	Against
Prohibit skateboarding, scooter and bicycles at all	The area is designed for pedestrians not wheeled vehicles	Some users have fed back that they use their boards to travel to work through the town and

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times within the zone; Open the Ise skate park for longer hours with lighting and a shelter for users		this would cause hardship.
Option Two	For	Against
Prohibit the use of skateboards, scooters and bicycles in specific areas – library steps, Market Place, area of the Traffic Regulation Order, and Morrison’s car park; Open the Ise skate park for longer hours with lighting and a shelter for users	Longer opening hours and improved facilities at the Ise skate park would provide a facility for young people later into the evening. Reduce the damage to the steps of a listed building Address concerns raised by partners and some members of the public in relation to safety and noise	Some skate boarders prefer “street” areas rather than bespoke facilities. Some concerns regarding noise and anti-social behaviour were raised a by minority of residents near the Ise skate park
Option Three	For	Against
Do not include any prohibition on skateboarding, scootering and bicycles in the PSPO		Issues of conflicting use remain as they are

Begging on the street, both the establishment of a “pitch” and/or aggressive begging

- 3.7 The inclusion of these activities is not intended to prevent the ability of members of the public, through their own generosity and compassion to support those facing difficult times. However, aggressive and persistent begging has been raised as a growing issue in the town centre by partner agencies, and members of the public. Some of the individuals regularly seen begging in town are not

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vulnerable in the usual sense of the term. Whilst existing police powers exist under the 1847 Act, it is difficult, in the view of the police, to effectively enforce. Concerns were raised through the consultation process regarding the need to support people who had fallen on hard times.

- 3.8 Members could decide to include in the PSPO an escalator, - a yellow and red card system - whereby help and support is offered to anyone begging; if this is ignored, and the unacceptable activity persists officers could then warn the person to stop or move away; if they then continue or return to beg, the officer may then issue a fixed penalty notice. The PSPO could be worded appropriately.
- 3.9 Discussion with officers in the Housing service indicates that were someone to be referred to them in these circumstances; any relevant assessments could be dealt with very quickly and efficiently.
- 3.10 Although not raised through the consultation process, members may wish to consider the potential to use the PSPO as a tool for addressing anti-social behaviour in relation to foul and abusive language.

4. CONSULTATION AND CUSTOMER IMPACT

- 4.1 Consultation with police, CSP partners, Kettering Town forum, members of the public and businesses took place between February and May 2015. All affected wards were included. 1000 leaflets were distributed to town centre shops and businesses, residences and community groups. There were also copies available in the Museum, Art Gallery, Library and Customer Services Reception. The consultation was also available online and was publicised through the council's Twitter feed and Facebook page as well as through an article in the Northants Telegraph.
- 4.2 A total of 626 responses were received with 446 people in favour of there being a PSPO in place, and 180 against. Of the 446 people who were in favour, 286 did not want the PSPO to extend to skating, boarding or scootering. Other responses were received with regards to begging where a number of respondents felt sympathy to those less fortunate; however, an equal number of people felt that aggressive begging was on the increase and should be prevented. Another suggestion, not mentioned in the original proposal is linked to the prevention of littering by prohibiting the distribution of leaflets. Further details of all of the consultation responses can be found at Appendix C.
- 4.3 An online petition, set up by a group who do not agree that skateboarding in Kettering should be subject to the restriction in the PSPO has also been set up. The petition, numbering 3252 signatures was presented to the July Council meeting. It is not known how many of these are borough residents and it is possible that there is overlap between the petition and the other responses.
- 4.4 A report was also submitted to Research and Development Committee in June 2015. The committee broadly accepted the proposals but asked for a meeting to

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be set up with the skateboarders to find a way forward following representation from a number of people at the committee.

- 4.5 In accordance with this, a meeting was held with members of the skateboarding community. It was felt that some compromise could be found around the opening hours of the skateboard park and with some provision of lighting (subject to fundraising and a community consultation), and then the skateboarders could be persuaded not to use town centre area.
- 4.6 In addition to this, a meeting has been held with the manager of Morrison's in Kettering who stated that whilst the vast majority of skateboarders comply when asked to move on, there are a 5 or 6 who have an offensive attitude and will not. Police have to be called and the supermarket staff keep a log detailing such incidents. As CCTV footage is available, it is hoped that appropriate legislation can be used by the police.
- 4.7 Whilst the council values and wishes to take note of the views of this section of the public, there are other aspects which have to be taken into account, such as the safety of the people using the Market Place and nuisance to people both living near and using Morrison's car park. Council officers have had verbal complaints from older people and mothers with young children about the unpredictability of the movements of skateboarders and feeling unsafe.
- 4.8 Other consultation responses received when the night time economy survey was done has drawn comments in relation to "Youths congregating around the market place, smoking, skateboarding and graffiti. Damage being caused to expensive paving, granite etc.' An exercise undertaken with businesses has noted that they have many challenges with the activities of the skateboarders and their attitude. Another business remarked on the damage caused to the library steps by skateboarders waxing them, and that there is no regard for cars both parked and being driven on Sheep Street.
- 4.9 However, two businesses indicated that they thought that the skateboarders were a good thing for the Market Place as they created an atmosphere during the quiet periods. Some felt that speeding cars were more of a problem than skateboarders.
- 4.10 As part of the wider information gathering exercise, officers asked colleagues at Northampton Borough Council (NBC) as to their experiences regarding the issue of skateboarding in the town. NBC has put into place a byelaw for Good Rule and Government. This covers the prohibiting of skateboarding in all designated areas in the town, which in this case are all of the car parks.
- 4.11 In the consultation work carried out with the public using the Market Place, of those who expressed a preference, 35% raised concerns about its use by skateboarders, in connection with noise or safety for other users.

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- 4.12 Residents living near the Ise Skate Park were consulted regarding the proposed extended opening hours to 9.30pm and potential lighting. Of those people who responded, 62% support the longer opening hours. 11% of people who responded were concerned about noise and anti-social behaviour potentially increasing.
- 4.13 Discussions with the ward members for Ise Lodge and Piper's Hill indicated support for the longer opening hours provided that safeguards relating to any behaviour were in place, including the ability to withdraw the extended hours were antisocial behaviour to arise as a result of the new arrangements. A six month trial could be implemented to establish the impact of any changes.
- 4.14 The PSPO contains a wide number of provisions in addition to skateboarding which were detailed in the consultation leaflet and members are asked to consider the appropriateness of continuing to include each of the provisions as set out in paragraph 3.1, and to consider the most appropriate option in relation to scooters, bicycles and skate boards as set out in the table at paragraph 3.6.

5. POLICY IMPLICATIONS

- 5.1 One of the council's three over-riding priorities is "better town centres" and the PSPO has the potential to contribute to a safer town centre for all residents, and ensure that it is a space in which everyone feels safe and comfortable. It is the ambition of the Council that it provides a safe and welcoming environment for people of all ages including families with young children and the elderly. To that end pedestrians have been prioritised in the town centre.
- 5.2 Members have been clear in their ambition for the Market Place as an area of the town for al fresco dining, and for families with young children to enjoy the area with relative freedom.
- 5.3 The council's commitments include a commitment to tackle anti-social behaviour and crime.
- 5.4 The council's desire to maintain Purple Flag accreditation for the night time economy will be supported over time by a PSPO being in place.
- 5.5 An Equality Impact Assessment has been completed and does not indicate any adverse impact on any one group.

6. FINANCIAL RESOURCE IMPLICATIONS

- 6.1 The PSPO would be enforced by Northamptonshire Police and the council using existing resources.
- 6.2 Additional resources may be required to provide some lighting and a shelter to the Ise Lodge Skate Park.

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7. HUMAN RESOURCE IMPLICATIONS

- 7.1 The council's environmental wardens are likely to be the main officers involved in supporting the police in enforcing the PSPO, and as such training and support will be provided to them.
- 7.2 It is expect that the police will similarly provide training to their officers.

8. LEGAL IMPLICATIONS

- 8.1 PSPOs are relatively new and not many orders are in existence. In that some provisions may be controversial, an order may be challengeable. Any successful challenge would depend on the council having failed to consult properly or misdirected itself in some way.
- 8.2 In the making of the PSPO, the Executive must be satisfied that any proposal meets section 59 of the 2014 Act. These are set out below.
- (1) A local authority may make a Public Spaces Protection Order if satisfied on reasonable grounds that two conditions are met.
- (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.
- (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.
- 8.3 The two issues that must be addressed for each proposed restriction is whether the statutory criteria is met and whether the proposed restrictions are proportionate having regard to the legitimate aim to preserve the quality of life and experience for those who live, work, or visit the town centre.

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9.0 RECOMMENDATION

The Committee is recommended

- a) To confirm the area of the PSPO as set out in the attached plan
 - b) To confirm that the scope of the PSPO should include all the activities set out in paragraph 3.1. of the report, except for item V
 - c) To confirm that in respect of begging, the PSPO be drafted so as to prohibit all forms of aggressive begging and to permit the police to prevent the establishment of a “pitch” in the area, but in such a way as to offer maximum support to vulnerable people as set out in paragraphs 3.8-3.10
 - d) To include in the PSPO, measures which allow action to be taken in respect of the use of foul and abusive language
 - e) To delegate to the Head of Legal and Democratic Services the drafting and implementation of the PSPO in line with statutory requirements
 - f) To extend the hours that the Ise Skate Park is open to accommodate evening use of skateboarding, providing necessary measures are implemented to avoid nuisance to neighbouring residential areas.
- 9.1. The Committee is asked to consider which of the following options it favours in respect of skateboarding and its inclusion in the PSPO: -
- a) Prohibition of skateboarding, bicycles and scootering throughout the PSPO area
 - b) Prohibition of skateboarding, bicycles and scootering on the steps of the Library, in the Market Place, within the area of the Traffic Regulation Order, and within the area of the Morrison’s car park only.
 - c) Not to prohibit skateboarding, bicycles and scootering.

Background Papers:

Title Research & and
Development report
Date June 2015

Contact Officer: Shirley
Plenderleith

Previous /Reports: Executive
Report
Ref:A14/037
Date: January 2015
Consultation Papers