

**For publication**

**The Anti-social Behaviour Crime and Policing Act 2014  
Consultation on the Designation of Public Spaces Protection  
Orders (HW1220)**

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Meeting:	Cabinet
Date:	25 <sup>th</sup> July 2017
Cabinet portfolio:	Health and Wellbeing
Report by:	Martin Key, Health and Wellbeing Manager

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**1.0 Purpose of report**

- 1.1 To inform Members of the legislative background to Public Spaces Protection Orders (PSPOs) in relation to control of anti-social behaviour (ASB).
- 1.2 To inform Members of the evidence supporting the implementation of PSPOs to control street drinking and other anti-social behaviour.
- 1.3 To ask Members to consider the proposed PSPOs and the geographical extent and controls over street drinking and other anti-social behaviour.
- 1.4 To ask Members to consider the public consultation proposed between August and September 2017.
- 1.5 To inform Members of the development of a Site Management Agreement (SMA) with the Public Fundraising Association (PFRA)

to control charity collectors seeking collections by means of 'Direct Debit' or 'Standing Order' payments (commonly referred to as 'Chuggers') within the town centre.

## 2.0 **Recommendations**

2.1 To ask Members to approve undertaking formal consultation for a period of 8 weeks on the Public Spaces Protection Order Chesterfield (No1) (relating to restricting alcohol consumption) and the Public Spaces Protection Order Chesterfield (No2) (relating to other anti-social behaviour controls).

2.2 To ask Members to note the establishment of a Site Management Agreement (SMA) with the Public Fundraising Association (PFRA) to control charity collectors seeking collections by means of 'Direct Debit' or 'Standing Order' payments (commonly referred to as 'Chuggers') within the town centre.

## 3.0 **Legislative background**

3.1 The Public Spaces Protection Order (PSPO) is a new power under the Anti-Social Behaviour, Crime and Policing Act 2014 and came into force in October 2014.

3.2 PSPO's are intended to deal with a particular nuisance or problem in a particular geographical area that is detrimental to the local communities quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

3.3 A PSPO can be made by the local authority if they are satisfied on reasonable grounds that the activities carried out or likely to be carried out, in a public place:

- Have had, or are likely to have a detrimental effect on the quality of life of those in the locality.
- Is, or likely to be of a persistent or continuing in nature.
- Is, or is likely to be unreasonable.
- Justifies the restrictions imposed.

3.4 PSPOs create a framework to control the impacts of anti-social behaviour. They can also either replace or update existing public

space restrictions such as Designated Public Place Orders (DPPOs) for alcohol and Dog Control Orders. In addition once a PSPO is in effect any existing bye-laws controlling activities included in the PSPO no longer have effect.

- 3.5 Local Authorities can make a PSPO on any public space within its own area. The definition of public space is wide and includes any place to which the public or any section of the public has access. A PSPO can contain both restrictions and requirements which will be determined by the Council after consultation with key stakeholders. These can be targeted against particular behaviours, by particular groups at specific times with more than one restriction being included within the PSPO.
- 3.6 Breaching a PSPO is a criminal offence. Orders can be enforced by an officer authorised by the local authority (including police community support officers) and a police constable. A breach of the PSPO can be dealt with through the issuing of a Fixed Penalty Notice of up to £100 or by prosecution with maximum fines being a level 2 fine (max £500) for alcohol consumption breaches or a level 3 fine (max £1000) for other breaches.
- 3.7 Appeals against a PSPO can be lodged by anyone who lives in, or regularly works in or visits the area in the High Court within six weeks of the date of issue. Further appeal can be made when a PSPO is varied by the local authority.
- 3.8 The PSPO can be in place for a maximum of three years and is designed to be flexible and responsive to need. There is no limit on the number of times that Orders can be renewed, as long as the need is still present. Variation of a PSPO can be done at any time to respond to the changing needs based on evidence of the effects on the quality of life of those in the locality.

#### 4.0 **Background – alcohol control**

- 4.1 The Council has previously adopted 2 separate DPPOs in 2004 and 2011 (attached as Appendix 1 and 2). The 2004 DPPO covers an area of Chesterfield town centre and the 2011 DPPO covers a larger area south of the town centre covering Boythorpe, St Augustines and Birdholme.

- 4.2 There is a difference in interpretation of controls between the two DPPOs due to the primary legislation not allowing confiscation of alcohol in closed containers at the time the 2004 DPPO was adopted. The enforcement impact of this is that often those approached will consume the open container and the officer cannot request surrender of any additional closed alcohol containers in their possession. This allows street drinkers to continue to drink unless the officer can witness drinking from another open container. The offence under a DPPO is failing to surrender alcohol when required by an authorised officer and not drinking in public.
- 4.3 The 2011 DPPO was enacted following amendment of the primary legislation and does require the surrender of both open and sealed containers. The police have evidenced from other areas that the ability to require surrender of closed and sealed containers significantly increases the effectiveness of the controls.
- 4.4 The existing DPPOs will automatically become PSPOs on 20 October 2017 if they are not adapted or changed prior to 19 October 2017.

## 5.0 **ASB in Chesterfield**

- 5.1 A PSPO can only be made if there are reasonable grounds that activities carried out or likely to be carried out, in a public place have had, or are likely to have a detrimental effect on the quality of life of those in the locality and are persistent or continuing in nature.
- 5.2 Whilst there have been reductions in levels of reported crime within Chesterfield during 2016/17, there has been a 13% increase in reported ASB in the town centre with 972 reports in 2016/17. There has been a visible escalation of ASB focussed around street drinking, drug use and disorder around the key gateways to the town and the impact on residents and visitors is unacceptable.
- 5.3 This is a national issue with most cities and larger towns affected. Many of the perpetrators are experiencing a complex range of issues including drug and alcohol dependency and mental illness. For some these issues are underpinned by reductions in support

due to public sector funding austerity and the impact of welfare reform changes. The impact in Chesterfield is exacerbated as the town centre is the location for much of the multi-agency support.

- 5.4 There have been a number of multi-agency meetings called by the Chesterfield Community Safety Partnership that have discussed the issues and possible controls. Following a detailed review of intelligence on ASB a number of new PSPO controls in support of the existing DPPOs have been considered. These have been subject to extensive consultation with the police locally to ensure the proposed controls are proportionate and the areas proposed for the controls are supported by adequate evidence.
- 5.5 There was a summit chaired by the Police and Crime Commissioner on 14 July 2017 to address the ASB issues in the town centre. This summit resulted in key actions to review existing and potential enforcement options, to review support and treatment and to lobby government on the impact of welfare reform on the vulnerable in society.

## 6.0 **Proposed PSPOs controls**

- 6.1 Following a detailed review of the intelligence and anecdotal evidence by the Community Safety Partnership it has been proposed that two separate PSPOs are required.
- 6.2 Public Spaces Protection Order Chesterfield (No1) is attached as Appendix 3 and the associated map at Appendix 4. It prohibits the drinking of alcohol within the restricted area (other than at an exempted location) and requires that where a person is, has been or intends to consume alcohol they shall (if required) surrender for disposal any alcohol including a container for alcohol.
- 6.3 It is proposed to slightly extend the area covered by the 2004 DPPO based on the evidence reviewed. In relation to the area covered by the 2011 DPPO the map will need to be amended to exclude the areas that are now included in new proposed PSPO. The 2011 DPPO can either be allowed to automatically transfer across to a PSPO on 20 October 2017 or it could be reissued with the same wording as Public Spaces Protection Order Chesterfield (No1) using a slightly revised map. It is proposed to consult on both options.

- 6.4 As a consequence of bringing in a new PSPO which replaces a DPPO there are steps to be taken to revoke the DPPO which are stipulated in legislation. The process will require consultation with the chief officer of police and any premises licence holder or the club premises certificate holder in the area who may be affected by the revocation. This will be undertaken as part of the wider PSPO consultation. Following review of the consultation comments and before revoking the order the Council must publish a notice in a local newspaper stating that it proposes to revoke the DPPO which will be subject of a separate report to the Appeals and Regulatory Committee.
- 6.5 Public Spaces Protection Order Chesterfield (No2) is attached as Appendix 5 (the map at Appendix 4 is also linked to this PSPO) and relates to a range of anti-social behaviour as follows:-

**Tents and other structures** - prohibits positioning or occupying any tent or other temporary structure without the express permission of the landowner and requires permanent removal within 12 hours.

**Dispersal** - prohibits any activity or behaviour causing nuisance, alarm, harassment or distress to any other person and requires immediate dispersal and prohibits return within 48-hours.

**Loitering and begging** - prohibits loitering around cash machines, shopping centre entrances, shop entrances or car park ticket and payment machines for the purposes of begging and requires immediate dispersal and prohibits return to any such location for the purposes of begging.

**Urination or defecation** – prohibits urinating or defecating other than in a facility specifically designed and intended for such use.

**Unattended material or paraphernalia** - prohibits leaving unattended any personal effects or belongings or any other material or paraphernalia including anything that may be considered as discarded or waste material.

**Intoxicating Substances** - prohibits the use (by ingestion inhalation injection or smoking) or supply of any intoxicating substance.

- 6.6 The PSPOs are part of a series of measures aimed at taking an holistic approach to improving Chesterfield for the benefit of all. There were a number of other issues considered for inclusion in the PSPOs based on information available. There were perceived issues with charity collectors seeking collections by means of 'Direct Debit' or 'Standing Order' payments (commonly referred to as 'Chuggers'). Whilst this could be considered for inclusion in the PSPO it was considered that an alternate non-regulatory control was more appropriate in this case.
- 6.7 The approach taken is the introduction of a Site Management Agreement (SMA) with the Public Fundraising Association (PFRA). The SMA together with its code of practice provides a self-regulating mechanism to address the issues arising from charity collectors seeking collections by means of 'Direct Debit' or 'Standing Order' payments (commonly referred to as 'Chuggers') and has shown to be effective in other areas. The SMA will address the frequency, timing and numbers of collectors permitted in the area and address any behavioural concerns of the individual collectors. A copy of the SMA is attached as Appendix 6.
- 6.8 As a result of the SMA there is no plan at this time to introduce specific provisions within the proposed PSPO to tackle issues associated with these organisations. However this is always an option available to the Council in the future should the SMA fail to adequately address the issue.
- 7.0 **Data and evidence supporting the proposed PSPOs controls**
- 7.1 Analysis has been carried out on information taken from the E-CINS (Empowering Communities Inclusion and Neighbourhood Management System) database recording ASB from both council and police systems. E-CINS is a county-wide database with shared access to key partners that allows secure data sharing and case management. Having reviewed the data recorded between 5 December 2016 and 9 July 2017 there were 444 incidents within

the proposed area of the PSPO as outlined in the map in Appendix 4. Of these 186 were recorded as being alcohol-related.

7.2 Further analysis of the individual reports for this period was carried out to identify the key words used to identify the type of ASB in the reports. Some of the reports have multiple key words and have therefore been considered under each of the activities reported. The table below summarises the basis of these ASB reports.

Rough Sleepers/homeless	63
Begging	27
Alcohol or drugs	218
Fighting, threatening behaviour, assault	256
Damage	42
Congregating and causing distress	45
Urination/defecation	24
Leaving belongings on the street	15

7.3 There were a further 26 cases of ASB reported on the Council's on-line complaints, comments and compliments system between January and June 2017.

7.4 In addition to these individual cases a number of locations have become a significant focus for the ASB and there are separate E-CINS files kept on these locations which include:-

- Grace Chapel, New Square, Chesterfield created 26/04/17
- Revenues Hall, Chesterfield created 20/04/17
- Old Court House (Knightsbridge Court) created 06/03/17
- Chesterfield Co-op created 27/02/17
- Tiffany's Bar created 04/12/16
- West Bars Beggars created 17/03/14
- Central library, Chesterfield created 23/01/14
- Chesterfield town centre dispersal order created 17/04/13
- Queens Park and Annex created 09/04/13
- New Beetwell Street bus station created 03/04/13
- Mecca Bingo active 22/08/16 – 04/10/2016
- Memorial Gardens Campers active 17/08/16 – 27/09/16

7.5 In addition to this the police have used 48 hour dispersal orders to effectively disrupt those causing the ASB. They have also been



granted six Criminal Behaviour Orders on key perpetrators which include bans from the town centre for extended periods of time of up to five years. In addition to the enforcement activities, we have actively engaged and worked with partners and charities to seek options to address the underlying issues.

7.6 It is considered that the evidence clearly provides reasonable grounds to consider that the controls proposed in the PSPOs are necessary to ensure that activities within the proposed areas do not have a detrimental effect on the quality of life of those in the locality and proportionally justify the restrictions imposed.

## 8.0 **Consultation**

8.1 The Anti-Social Behaviour Crime & Policing Act 2014 requires that local authorities carry out public consultation on any proposed PSPOs.

8.2 There is a legal duty on the Council to consult specifically with the Chief Officer of the Police, the Police and Crime Commissioner (PCC), the Highways Authority and any other relevant bodies including community representatives within the local area.

8.3 The local police are fully supportive of the initiative and have been involved with the development of the PSPO including the sharing of data to help demonstrate that the conditions required for implementing the PSPO are met.

8.4 The consultation will run for 8 weeks and be published on the Councils web site and will be advertised widely including via social media with notice provided to relevant bodies believed to have an interest. Paper copies will also be made available at local libraries and on the reception desks at the customer contact centre, town hall and sports centres. The questions proposed for the consultation are included in Appendix 7.

## 9.0 **Human resources/people management implications**

9.1 There is already a range of enforcement activities undertaken in the areas proposed to be included within the PSPOs. There is a good working relationship with the police and the enforcement is

currently targeted based on intelligence received and service demands. There is enforcement activity undertaken by staff from the Community Safety Team, Licensing, Environmental health and supported by other town centre staff in CCTV, street cleaning, markets and parking.

- 9.2 The officers within the Environmental Protection team already lead on enforcement for environmental issues and have delegated powers to serve Fixed Penalty Notices for dog fouling, litter, anti-social behaviour etc..
- 9.3 Following discussions with police colleagues it is proposed that the majority of legal proceedings for breach of PSPOS will be undertaken by the Council. The police will deal with complaints they receive, support and provide evidence of potential breaches of the PSPO. It is proposed to further consult with police colleagues around the establishment of a Memorandum of Understanding on enforcement activity.
- 9.4 The principles proposed are that the police will issue Council Fixed Penalty Notices (FPNs) and the administration of these will be undertaken using the existing FPN processes by officers within the Environmental Protection team. Any income from these will be used to support activities around ASB within the borough. Further it is proposed that enforcement for criminal breach of a PSPO will be led by the Council unless the police have a wider criminal action in hand when they will take primacy.
- 9.5 There is currently a significant number of incidents relating to anti-social behaviour within the areas proposed to be incorporated in the PSPOs. Also many of the incidents occur outside normal working hours (i.e. during the evening and at the weekend). Currently, the enforcement officers work Monday to Friday and any response during the evening and at the weekend relies on officers being available and on a voluntary basis.
- 9.6 There is a review of enforcement across the health and well-being service underway (including Licensing and Community Safety teams) with a view to redesign to provide additional resource across all hours for supporting enforcement of the PSPOs in collaboration with the police. This will be reported to

cabinet along with the outcomes of the formal consultation later in the year.

## 10.0 **Financial implications**

10.1 There are no financial implications at this stage as the recommended action is to begin consultation as required by the statutory provisions.

10.2 Should the Orders be approved, the PSPOs must be published in accordance with the regulations made by the Secretary of State and appropriate signage placed within areas where there are restrictions in place. Costs associated with this will be addressed following the outcome of consultation in the subsequent report.

## 11.0 **Legal and data protection implications**

11.1 No legal and data protection implications at this stage as the recommended action is to begin consultation as required by the statutory provisions.

## 12.0 **Risk management**

12.1 The following risks associated with this report have been identified as:

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
Challenge of the PSPO at High Court by an interested party.	High	Medium	Statutory consultees and the public will be consulted.	High	Low
Increase in complaints about non-compliance with the PSPO	High	Medium	Draw upon enforcement resource within the Council and partners. Ensure enforcement resource available out of hours.	Medium	Low

Adverse reaction by press and public to proposals	High	Medium	Full media campaign to explain evidence and alternate approaches to support vulnerable persons	Medium	Low
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### 13.0 **Equalities Impact Assessment (EIA)**

13.1 When making a PSPO 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 and the Human Rights Act.

13.2 The wording of the PSPO has been specifically drafted in a way to avoid targeting any specific group or type of individuals and only targets the behaviours that cause nuisance, alarm, harassment or distress to others.

13.3 The potential equality impacts of the PSPOs have been assessed. A copy of the EIA is available in Appendix 8. No negative impacts are anticipated on protected groups have been identified at this stage. The EIA will be updated and reassessed following consultation.

### 14.0 **Alternative options and reasons for rejection**

14.1 The proposals are subject to a consultation phase and any alternate options will be considered once the consultation responses have been evaluated and will be reported to cabinet at a future date.

### 15.0 **Recommendations**

15.1 To ask Members to approve undertaking formal consultation for a period of 8 weeks on the Public Spaces Protection Order Chesterfield (No1) (relating to restricting alcohol consumption) and the Public Spaces Protection Order Chesterfield (No2) (relating to other anti-social behaviour controls).

15.2 To ask Members to note the establishment of a Site Management Agreement (SMA) with the Public Fundraising Association (PFRA) to control charity collectors seeking collections by means of 'Direct Debit' or 'Standing Order' payments (commonly referred to as 'Chuggers') within the town centre.

16.0 **Reasons for recommendations**

16.1 PSPO's are intended to deal with a particular nuisance or problem in a particular geographical area that is detrimental to the local communities quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

16.2 The proposals included in the PSPOs are proportionate, based on evidence and analysis and are necessary to address the issues of ASB within the specified designated locations.

<b>Glossary of Terms</b> <i>(delete table if not relevant)</i>	
<i>DPPO</i>	<i>Designated Public Place Order</i>
<i>PSPO</i>	<i>Public Spaces Protection Order</i>
<i>SMA</i>	<i>Site Management Agreement</i>
<i>PFRA</i>	<i>Public Fundraising Association</i>
<i>FPN</i>	<i>Fixed Penalty Notice</i>
<i>E-CINS</i>	<i>Empowering Communities Inclusion and Neighbourhood Management System</i>

**Decision information**

<b>Key decision number</b>	<b>Non-key 69</b>
<b>Wards affected</b>	Brockwell, Hasland, Holmebrook, Rother, St Leonards, Walton
<b>Links to Council Plan priorities</b>	To develop our great town centre To increase the quality of public space for which the council has responsibility through targeted improvement programmes To improve the health and well-being of people in Chesterfield Borough To reduce inequality and support

	the more vulnerable members of our communities
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### **Document information**

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<b>Background documents</b>		
These are unpublished works which have been relied on to a material extent when the report was prepared.		
N/A		
<b>Appendices to the report</b>		
Appendix 1	DPPO 2004	
Appendix 2	DPPO 2011	
Appendix 3	Public Spaces Protection Order Chesterfield (No1)	
Appendix 4	PSPO map	
Appendix 5	Public Spaces Protection Order Chesterfield (No2)	
Appendix 6	Site Management Agreement (SMA) with the Public Fundraising Association (PFRA)	
Appendix 7	Consultation questions	
Appendix 8	Equalities Impact Assessment	