

AGENDA ITEM

REPORT TO CABINET

16th FEBRUARY 2023

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Access, Communities and Community Safety - Lead Cabinet Member – Councillor Norma Stephenson OBE

PUBLIC SPACE PROTECTION ORDER

SUMMARY

The protection of our public space within our town centre settings is a key priority for this Council. Whilst Stockton on Tees continues to have the lowest recorded crime and anti-social behaviour rate in the Cleveland Police area, we continue to face significant challenges arounds both within our town centre environments.

Furthermore, public perceptions relating to the fear of crime and disorder continue to be poor, especially when it comes to Stockton Town Centre and specifically in relation to aggressive begging and disorderly behaviour.

This report is intended to provide a background to Cabinet for a decision on the introduction of a Public Space Protection Order (PSPO) to be made.

REASONS FOR RECOMMENDATION(S)/DECISION(S)

This report is made to seek approval from Cabinet, to introduce a Public Space Protection Order within the Borough of Stockton on Tees, specifically Stockton Town Centre and Norton Village. The purpose of the PSPO is to reduce anti-social behaviour within two areas of our borough, specifically in relation to aggressive begging and street drinking which residents have told us is having a detrimental impact on their feelings of safety.

RECOMMENDATIONS

1. To note the contents of the report and the considerations for implementing a Public Space Protection Order (PSPO) within the boundary of Stockton on Tees.
2. To consider and approve Officers to progress to the legal stage of the implementation of the proposed PSPO.
3. To set the fixed penalty notice rate at £100.00.

DETAIL

1 Public Space Protection Orders

- 1.1 Here in Stockton on Tees, the protection of our residents, legitimate businesses and visitors is of absolute importance. We take our duties in relation to community safety and regulation extremely seriously and as a result, we expect only the best of our services. At Stockton on

Tees Borough Council our priority is to protect, care and empower to create a safer borough and to foster a real sense of pride in our communities. Alongside making a difference to the lives of individuals and families, we are passionate about delivering continuous service improvement and ensuring those who deliver our services to the public are given all the tools needed to do their jobs effectively.

- 1.2 On 20th October 2014 the Anti-Social Behaviour Crime and Policing Act came into force. This Act introduced several tools and powers for use by Councils and the police to address anti-social behaviour in our communities. The Act also replaced and made efficiencies to previous measures and were put in place to put victims at the centre of approaches to tackling anti-social behaviour by focusing on the impact poor behaviour can have on both communities and the most vulnerable. The Act introduced the powers available to police and local authorities to deal with anti-social behaviour. One of these measures is the use of a Public Space Protection Orders (PSPO).
- 1.3 A PSPO is intended to deal with a particular nuisance or problem in a particular geographical area where the behaviour is detrimental to the local community's quality of life, by imposing conditions on the use of that area. These can apply to everyone who uses that area or can be specifically structured to apply only to certain groups or categories of person, at different times or in specified circumstances. The Council is responsible for making a PSPO although the police can also have enforcement powers. The Council can make a PSPO if satisfied, on reasonable grounds that the following conditions are met in relation to the activities sought to be regulated:
 - That they are or are likely to be carried on in a public place within the Borough;
 - That they have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
 - The effect, or likely effect of the activities is likely to be, persistent or continuing in nature;
 - Is or is likely to be such as to make the activities unreasonable; and
 - Justifies the restrictions sought to be imposed by the order.
- 1.4 In addition to the specific statutory consultation requirements, the Council must adhere to the publication requirements which form part of the Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014. These specify both advertising requirements and the need for clear signage to be placed on land affected so the public are aware of what controls are in place.
- 1.5 If made, details of the making of a PSPO will have to be made available on the Council's website and notification is required to be placed on the land affected in such a manner as to bring the order to the notice of persons using the restricted land. Any variation or discharge of the orders must be similarly publicised.
- 1.6 Should the PSPO be implemented the Council will work with the Police to ensure that frontline officers are aware of the new powers and how to use it, to maximise the impact of the PSPO. Additional governance and monitoring arrangements are also included as part of the deployment strategy developed by our Community Safety Team.
- 1.7 A breach of the PSPO is a criminal offence, which can be dealt with, either by way of a fixed penalty notice (FPN) or prosecution. If prosecuted, an individual could be liable for a fine. Only those aged over 18 can be issued with an FPN. The fixed penalty notice rate can be set locally and does vary across local authority areas. It is recommended that the rate is set at the maximum £100.00 here in Stockton on Tees, to ensure maximum deterrence to protect the vulnerable and wider community or users of the town centre and Norton.

- 1.8 Any PSPO introduced is only valid for three years and must thereafter be extended if still required. Such extension is subject to the Council being satisfied that it is reasonable and necessary to do so and is subject to the same publication requirements as the introduction of the PSPO in the first instance. During the three year period, constant monitoring of the use of a PSPO will be undertaken and scrutiny provided through the existing Safer Stockton Partnership structure given the multi-agency partnership involved.
- 1.9 In January 2022, the Crime and Disorder Select Committee reported on an in-depth scrutiny review of the PSPO process and the potential implications of such orders in Stockton on Tees. The report explored key lines of enquiry which resulted in a range of recommendations including defining aggressive begging in Stockton on Tees as:
- *The action of begging for money or other items in a manner considered to be unreasonably threatening or intimidating, especially when targeting a person due to a perceived vulnerability or in a location such as in the vicinity of ATMs / cashpoints. This includes, but is not limited to, behaviour such as:*
 - *Repeated requests for money or items whilst approaching or following the person from whom the request is made;*
 - *Continuing to make requests for money or items from a person, after the person has refused or implied reluctance to give money or items;*
 - *Using false or misleading information in order to request money or other items;*
 - *Providing or delivering, or attempting to provide, unsolicited services or products with a demand or exertion of pressure for payment in return*

Since the committee published its findings in January 2022, concerns in relation to aggressive begging and alcohol related anti-social behaviour have continued. The ward with the most anti-social behaviour related incidents for the Council's Civic Enforcement Service remains Stockton Town Centre, a position mirrored by Cleveland Police. In terms of anti-social behaviour of all the incidents that the Council has responded to in this location, aggressive begging remains by far the highest demand and prevailing area of concern for the public which is also the case for Norton Village.

2 Proposed use in Stockton on Tees

- 2.1 We have been exploring the implementation of a Public Space Protection Order in Stockton on Tees for sometime. We have always adopted a prevention and education focused approach in Stockton on Tees, ensuring our services to the most vulnerable and complex in our communities are reaching the right people and at the right time. That said, despite our continued commitment to support our communities, we must also consider how the protection and support of individuals weights up on balance to the overarching duty to protect the public at large, who have a right to go about their lives free from the fear of harassment, alarm and distress. Stockton on Tees continues to perform well in terms of community safety, statistically having the lowest crime rate in Cleveland and enjoying large reductions in anti-social behaviour overall. That said, our data, intelligence and our communities tell us that the perception and fear of crime in both Stockton Town Centre and Norton Village continues to have a detrimental impact on our residents, businesses, and visitors. Despite our best efforts, additional measures are needed to address specific demands around aggressive begging and alcohol related disorder in the two areas.
- 2.2 Year to date, reports of anti-social behaviour to Cleveland Police shows that across the borough there was 4,425 anti-social behaviour incidents which is a reduction of 32% compared to the previous 12 month. This contrasts however with an increase of 10% (449 incidents) in reported anti-social behaviour incidents to Stockton on Tees Borough Council, however most of this increase related entirely to aggressive begging (increase of 163 reports) within the Stockton Town Centre environment, closely followed by rowdy and

drunken behaviour (increase of 162 reports). For both organisations, Stockton Town Centre continues to be the hotspot for reports of anti-social behaviour and disorder.

- 2.3 Both Stockton on Tees Borough Council and Cleveland Police work very closely together to tackle crime and anti-social behaviour which impacts on our communities and in the case of town centres, threatens economic growth and development. Over the past three years, over 30,000 reports of anti-social behaviour have been dealt with across Stockton on Tees. Reports of anti-social behaviour are categorised in to 18 types, however two issues dominate demand, pointing to an unaddressed issue for both aggressive begging and alcohol related rowdy and nuisance behaviour.
- 2.4 Stockton Town Centre has the highest rate of recorded anti-social behaviour for both Cleveland Police and Stockton Borough Council Community Safety. Between January 2022 and December 2022, 3569 reports of anti-social behaviour were investigated by Stockton on Tees Borough Council, with 30% (1096 reports) of those relating to Stockton Town Centre. The highest category of complaint was aggressive begging in the town centre, accounting for over 25% of all reports followed by concerns relating to the consumption of alcohol in the public realm and the subsequent behaviour as a result.
- 2.5 There is a similar intelligence picture for Norton North within Norton Village, which has the second highest rate of anti-social behaviour in the borough although some way off the rate of reporting in the town centre. A total of 411 (11%) complaints have been received regarding anti-social behaviour in Norton North in 2022, with aggressive begging accounting for 42% of all demand, followed by alcohol related nuisance and disorder. Whilst we do have reports of anti-social behaviour in other wards, both Stockton Town Centre and Norton account for the greatest level of reports and 42% of service demand combined, with all other wards falling significantly lower than both (Stainsby Hill (233 reports – 6%), Hardwick (186 reports – 5%) and Billingham Central (162 reports – 4%)).
- 2.6 Our Community Safety Team, including partners; have a wide range of powers that can be used to tackle anti-social behaviour, most of which come from the Anti-social Behaviour, Crime and Policing Act 2014. The use of anti-social behaviour reporting (AS13), Acceptable Behaviour Contracts (ABC), injunctions, criminal behaviour orders (CBO) and community protection orders (CPN) for example have all been explored and, in some cases, used to good effect. Unfortunately, these available measures do take a significant amount of time to put in place and for them to become effective, by which time many of the issues reported by the public have either changed, escalated, or moved on to other areas around both towns.
- 2.7 Aside from the enforcement tools available to tackle anti-social behaviour, we also have a range of support services which work closely with community safety and policing teams to support those causing anti-social behaviour because of a complex lifestyle. Integrated working with Public Health around drug and alcohol support services, includes outreach work delivered by CGL (Change Grow Live) and other health partners. Furthermore, outreach from housing and benefit support services compliment the overall effort to provide support to individuals and reduce anti-social behaviour by adopting a public health approach. We will continue to develop and grow support services to ensure they are fit for future needs, however there is a pressing demand for more immediate enforcement activity whilst this is happening.
- 2.8 Despite these measures, anti-social behaviour associated with aggressive and targeted begging alongside drunken behaviour and alcohol abuse persists. The only remaining tool yet to be used to tackle these issues directly is the use of a Public Space Protection Order.

3 Consultation

- 3.1 There is a requirement on the Council to consult when implementing a PSPO. The specific wording of the Act sets out that: Local Authorities are obliged to consult with: a) The chief

officer of police, and the local policing body, whatever community representatives the local authority thinks it appropriate to consult; c) The owner or occupier of land within the restricted area.

- 3.2 Following a partnership strategic assessment which highlighted issues in both Stockton Town Centre and Norton North, we ran a consultation to better understand public opinion on aggressive begging and alcohol related disorder in these two areas which statistically continue to be the biggest challenge for both Stockton Borough Council and partners. The consultation was open between November and December 2022, with over 1,312 responses to the online consultation alone with hundreds more comments made on social media, directly by email and via our statutory partners in the form of a statutory written response.
- 3.3 For Stockton Town Centre, 81% of the 1,084 respondents told us that they had been affected by aggressive begging with 92% strongly agreeing or agreeing that there is a problem that needs addressing. Furthermore 81% of responders also informed us that aggressive begging impacts on their decision to visit town. When considering street drinking, 80% of people told us they had been affected by this behaviour with 92% telling us there was a problem, which stopped 81% of the 1,084 respondents from visiting Stockton Town Centre. Overall, 91% of respondents informed us that they either agreed or strongly agreed that a PSPO preventing aggressive begging and street drinking would make them feel safer when visiting Stockton Town Centre. This is also consistent with social media commentary.
- 3.4 For Norton Village, the reply was also clear with 520 responses to the online consultation. In terms of aggressive begging, 69% of responders informed us that they had been affected by aggressive begging and 80% agreeing or strongly agreeing with the fact there was a problem that needed addressing. Of the 520 responses, 60% of people informed us that aggressive begging influenced their decision to visit Norton Village. In terms of street drinking, 58% of those who took part in the survey told us that they had been affected by street drinking in Norton and nearly 70% agreeing or strongly agreeing there was a problem. Whilst only 56% positively agreed with the fact it influences their decision to visit Norton, 84% overall agreed that a PSPO to tackle aggressive begging and street drinking in Norton would make them feel safer.
- 3.5 Following the outcome of the consultation and our own strategic assessment of the problems outlined, further consultation has taken place with statutory partners, elected Members, and other key stakeholders, all of which are in favour of a Public Space Protection Order being implemented. These consultees include;
- Cabinet Member for Access, Communities and Community Safety
 - Cabinet Member for Health, Leisure and Culture
 - Elected Members for Norton North
 - Elected Members for Stockton Town Centre
 - Chief Constable of Cleveland Police
 - Police and Crime Commissioner for Cleveland
 - Safer Stockton Partnership
 - Town Centre Board
 - Stockton Business Improvement District (BID)
 - Stockton Borough Council – Internal Departments
- 3.6 Support in favour of implementing a PSPO has been received from all statutory partners, elected Members and other key stakeholders listed.

4 Scope of the Order

- 4.1 Used proportionately and in the right circumstances, PSPOs allow local areas to address unreasonable and persistent behaviour that affects the quality of life of its residents. They

can send a clear message that certain behaviours will not be tolerated and help reassure residents that unreasonable conduct is being addressed. However, PSPOs will not be suitable or effective in all circumstances, and it is important to carefully consider the right approach for identifying and addressing problem behaviour. Detailed analysis and consideration has been undertaken to ensure our approach is proportionate and targeted both in terms of measures and the geographical areas covered.

- 4.2 The latest information and intelligence highlights the challenges both Stockton Borough Council and partners are facing to address some key issues impacting on community safety. Whilst a significant amount of work has been done to reduce anti-social behaviour and tackle those perpetrating it, challenges remain in addressing both aggressive begging and alcohol related rowdy behaviour within both Stockton Town Centre and Norton Village.
- 4.3 As a result, a proposed PSPO for Stockton on Tees would be focused on only two prohibitions for both Stockton Town Centre and Norton. PSPOs can be used to restrict a broad range of activities. Under section 59 of the 2014 Act, we are satisfied on reasonable grounds that the following activity should be subject to an order:
- **Aggressive Begging** – This includes, but is not limited to, begging in a manner that a reasonable person would perceive to be threatening, intimidating or aggressive. This includes repeatedly asking for money or following a person. This does not include passive begging, such as sitting in doorways and does not cover other factors such as housing status. An exemption is also built in for those permitted by the Council to fundraise for causes such as charities.
 - **Consumption of Alcohol** – In order to prevent public nuisance or disorder, a ban on drinking in the designated areas will also be brought in. This element of the PSPO will be enforced where an authorised person has directed an individual to not consume alcohol in circumstances when their behaviour is perceived to have a detrimental impact on the public or the locality. An exemption is in place which excludes the consumption of alcohol in the boundary of a licenced premise.
- 4.4 Failure to following the advice and warnings of authorised officers can lead to the seizing of alcohol and in the case of both aggressive begging and alcohol, a fixed penalty notice may be issued as a last resort if the reasonable instructions of an authorised officer are not followed.
- 4.5 We know from consultations that the perceptions and fear of crime continue to be high with the public strongly highlighting that further action is required to improve feelings of safety. As such, the case for exploring further options such as a PSPO is strong, especially if these options lead to more visible and quicker action to instil confidence in the public. It is therefore recommended that we progress further with the next stages of implementing a PSPO to provide additional powers to tackle aggressive begging and to address alcohol related anti-social behaviour in both Stockton Town Centre and Norton Village.
- 4.6 The implementation of additional powers via a PSPO is also timely in supporting the ambitious re-development of our town centres and to support economic recovery post Covid-19. Coupled with the additional 12 Civic Enforcement Officers that are now in place, a PSPO can be appropriately resourced and enforced accordingly through existing investment in resources.

COMMUNITY IMPACT IMPLICATIONS

The implementation of a PSPO potentially could have negative impacts on certain groups more than others. Consideration has been given to better understand the potential impacts and the appropriate steps that need to be taken to mitigate and ensure that the PSPO is used proportionately, reasonably, and fairly in line with the appropriate guidance. This has been done through the established community impact assessment process (CIA).

The Council has a statutory duty to comply with the provisions set out in the Equality Act 2010. In summary, the Council must in the exercise of all its functions, “have due regard to” the need to comply with the three arms or aims of the general equality duty. These are to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- foster good relations between people who share a protected characteristic and people who do not share it.

Having due regard means to consider the three aims of the Equality Duty as part of the process of decision-making. We can evidence that the Council in seeking a PSPO have considered any impact of the proposals under consideration on people who share the protected characteristics before decisions are taken.

Any proposed PSPO is likely to have a positive impact on certain protected groups who are subjected to anti-social behaviour and aggressive targeted begging due to a perceived vulnerability or age. The PSPO will apply to the whole population and its use will be determined by the behaviour occurring rather than a specific characteristic of an individual. The exception is the young, as those under 18 years will not be issued a fixed penalty notice for breaches of the PSPO itself.

CORPORATE PARENTING IMPLICATIONS

This report does not contain any corporate parenting implications.

FINANCIAL IMPLICATIONS

There are no significant financial implications as a result of the introduction of a PSPO in Stockton on Tees. It will be necessary to diverting existing resources to the policing and monitoring of the PSPO which may have a detrimental impact on service delivery should resource allocation change in the future. Some limited capital costs for the purchase and installation of new signage throughout the PSPO area will be met using existing resources within Community Safety.

LEGAL IMPLICATIONS

Section 5 of the Crime and Disorder Act 1988 sets out that the Council and its partners have a joint responsibility for preventing and reducing crime and disorder in the area as responsible authorities.

The Anti-Social Behaviour, Crime and Policing Act 2014 provides the Council with powers to combat anti-social behaviour. The Council needs to ensure that the powers are used in a reasonable, consistent, appropriate and proportionate manner and must comply with the consultation requirements set out in this report.

Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) provides the authority with the power to make a PSPO if satisfied on reasonable grounds that two conditions are met. Section 60 of the Act provides that a PSPO shall not have effect for longer than 3 years unless extended under this section. Section 61 provides a power to vary a PSPO by increasing or

reducing the restricted area; or by altering or removing a prohibition or requirement included in the Order, or adding a new one.

Section 72 details the requirements for convention rights, consultation, publicity, and notification. The authority must have taken into account articles 10 and 11 of the Convention, carried out the necessary consultation, publicity and notification before making, extending, varying or discharging a PSPO.

Under Section 66 of the Anti-Social Behaviour, Crime and Policing Act 2014 an individual who lives in the restricted area or who regularly works in or visits that area may apply to the High Court to question the validity of a PSPO. The grounds on which an application under this section may be made are either that the local authority did not have the power to make the order, or to include particular prohibitions or requirements imposed by the order; or that a requirement under the 2014 Act was not complied with.

If an application under this section the High Court is satisfied that (a) the local authority did not have power to make the PSPO, or to include particular prohibitions or requirements imposed by it, or (b) the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement under the 2014 Act, the Court may quash the PSPO or any of the prohibitions or requirements imposed by it. It is therefore important that a thorough consultation exercise was carried out to mitigate the risk of such a challenge should a decision ultimately be made to introduce a town centre PSPO.

RISK ASSESSMENT

The implementation of a PSPO is categorised as medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk and additional governance and procedures are in place to ensure proportionate use of powers, if approved.

WARDS AFFECTED AND CONSULTATION WITH WARD/COUNCILLORS

The proposed decision to introduce a Public Space Protection Order, impacts on two specific wards directly. Consultation has been undertaken with all effected Councillors.

Stockton Town Centre

Cllr Pauline Beall, Cllr Paul Kirton

Norton North

Cllr Lisa Evans, Cllr Steve Nelson

BACKGROUND PAPERS

Report of the Crime and Disorder Select Committee – PSPO – January 2022

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