

Birmingham City Council

Report to Cabinet

Date: 19 March 2024



Subject: Soho, Lozells & East Handsworth Public Space Protection Order (PSPO)

Report of: Craig Cooper – Strategic Director of City Operations

Relevant Cabinet Member: Councillor Nicky Brennan, Cabinet Member for Social Justice, Community Safety and Equalities

Relevant O &S Chair(s): Councillor Mohammed Idrees – Homes Overview and Scrutiny

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|---|---|--|
| Are specific wards affected? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No – All wards affected |
| If yes, name(s) of ward(s): Soho, Lozells & East Handsworth | | |
| Is this a key decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| If relevant, add Forward Plan Reference: : 012440/2024 | | |
| Is the decision eligible for call-in? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Does the report contain confidential or exempt information? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential: | | |

1 Executive Summary

- 1.1 The Anti-social Behaviour, Crime and Policing Act 2014 introduced tools and powers for use by councils and their partners to address anti-social behaviour (ASB) in their local areas. These tools are to be used for tackling ASB, focussing on the impact behaviour can have on both communities and individuals.
- 1.2 Public Spaces Protection Orders (PSPO) are one of the tools available under the Anti- social Behaviour Crime and Policing 2014 Act. PSPOs are wide-ranging

and flexible powers for local authorities, which recognise that councils are often best placed to identify the type of activities which are having a detrimental effect on the quality of life of those who live in, work in or visit the local authority area. A PSPO identifies the type of activities. Sets out conditions which aim to prevent the detrimental effect from occurring or reduce the detrimental effect. Defines the public space by way of a map 'the restricted area' where the activities are occurring. This proposed PSPO orders anyone entering any public space in the restricted area to comply with the conditions.

1.3 Together with partners, Birmingham City Council Community Safety Team (CST) has been consulting on proposals to introduce a PSPO in the Soho, Lozells & East Handsworth area.

1.4 This report sets out the rationale behind the introduction of the proposed PSPO; the proposed conditions, the proposed restricted areas and the findings from public consultation exercise and evidence.

It is seeking comments and approval from Cabinet to move forward to the next stage – consideration by the Strategic Director of City Operations.

2 Recommendations

2.1 To note the reasons for a PSPO application within the defined restricted areas and the outcome of the formal consultation.

2.2 That Cabinet approves the recommendation to move forward with the implementation of the PSPO on the basis of the evidence collated and consultation findings and instructs the Strategic Director of City Operations to proceed with plans to implement the PSPO.

3 Background

3.1 In 2019, preparatory discussions were held at the Birmingham West Local Partnership Delivery Group (now known as the Local Community Safety Partnership (LCSP)) to address various concerns in anticipation of an existing PSPO's expiration. This PSPO had initially transitioned from alcohol restricted zones to PSPOs under the Antisocial Behaviour, Crime and Policing Act 2014.

3.2 The complexities of antisocial behaviour were observed on both sides of Soho Road, prompting initial discussions with partners. These conversations led to a consensus in favour of a single PSPO, encompassing locations spanning two neighbourhood policing constituencies, resulting in a proposal to include five wards within this designated area¹.

3.3 Amid personnel changes within the police teams, a focused PSPO proposal² was developed for Soho and Jewellery Quarter areas alone. Subsequently, evidence

¹ Appendix One – Consultation Order Map Area

² Appendix Two – Consultation Order Prohibitions

was gathered, and a meeting took place with Birmingham City Council's Legal team, in January 2021 to define the specific parameters of the proposed Order.

- 3.4 Further discussions continued throughout 2021, acknowledging the challenges associated with evidence collection due to lockdown restrictions. In early 2022 Lozells and East Handsworth policing team introduced a PSPO proposal, specifically tailored to align with the boundaries of the Lozells Impact Area. Impact Areas signify regions marked by elevated crime, crime, demand, deprivation, and harm necessitating long-term interventions. Collaboration between law enforcement and partner agencies is essential, with the PSPO representing a key mechanism to address prevailing antisocial behaviour within the community.
- 3.5 Ongoing discussion with partners resulted in a decision to formerly submit a single PSPO proposal in 2022. The Ladywood West and Perry Barr neighbourhood policing units, worked closely to define the precise boundaries, which encompasses both sides of Soho Road, the boundary between the two neighbourhood policing units. This strategic decision aimed to proactively address concerns and prevent displacement due to issues spanning the broader region.
- 3.6 Since 2019, ongoing discussion during LPDG multi-agency meetings have consistently addressed the challenges related to antisocial behaviour on both sides of Soho Road. These matters have been thoroughly explored in collaboration with partners, including WM Police, Soho Road Business Improvement District (BID), BCC Youth Service, Birmingham Children's Trust (BCT), Registered Social Landlords (RSLs) and the BCC Community Safety Team.
- 3.7 Witness Statements have been gathered from members of the public, residents and local businesses all expressing their support for the PSPO³. In addition to these Witness Statements, the local police teams have contributed valuable data⁴. They have actively participated in numerous community meetings such as Neighbourhood Watch, where the support for the PSPO received resounding endorsement from those in attendance.
- 3.8 While our initial consultation from 28th April 2023 to 9th June 2023 included consulting and engaging events, the Be Heard survey only received 46 responses. Subsequently, and following legal advice, it was collectively agreed with partners that revisiting the consultation process would be a prudent course of action. This decision was prompted with the aim to enhance outreach and community involvement, striving for a more comprehensive and inclusive engagement.
- 3.9 From 11th September 2023 to 29th October 2023, we conducted a second round of consultation with a concerted effort to ensure broader public participation. To achieve this, we attended and organised partnership engagement events within

³ Appendix Three – Public Statements

⁴ Appendix Four – Police Support Data

the community at local public venues. We produced information leaflets about the PSPO in five of the community languages as well as offering support to community members in completing the online survey. We also conducted targeted letter drops within the PSPO zone area. During the engagement process, we did not receive any negative feedback however, most people were reluctant to take part due to the time needed to complete it. We received a total of 121 Be Heard responses.

4 Consultation

- 4.1 Between 11th September 2023 and 29th October 2023, a public consultation took place.
- 4.2 On 11th September 2023, an online survey went live on Be Heard for 7 weeks, concluding on 29th October 2023. The consultation was shared with five of our West LCSP Councillors.
- 4.3 Throughout the consultation period, BCC CST held face to face and public consultations. These included – 18th September 2023 and 22nd September 2023 Handsworth Library, 22nd September 2023, 6th October 2023 and 27th October 2023 Nishkam Community Centre, 17th October 2023 Cannon Street, Methodist Church, 29th October 2023 Diwali Mela (stall). Additionally, we engaged with businesses in Soho, Lozells and East Handsworth and conducted street engagements with the public in these areas. We also conducted a leaflet drop within the wards that had links to the online survey and more information regarding the proposals.
- 4.4 The consultation ended on 29th October 2023 with a total 121 responses received through Be Heard⁵.
- 4.5 Of the 121 responses 117 (96.69%) agreed with the introduction of a PSPO, 4 (3.1%) did not agree. Of those 121 respondents, 83 (68.6%) live in the areas for which the PSPO is requested.
- 4.6 Of the 121 respondents, 113 (93.39%) agreed that the location for the PSPO was correct.
- 4.7 Having reviewed the outcome of the consultations, it is appropriate to proceed as recommended in this report. The views expressed do not change the mind of the local authority.⁶

5 Risk Management

- 5.1 Reputational risk. BCC CST have been working with WM Police to develop an evidence package, WM Police have invested resources into this process both for

⁵ Appendix Five – Public Consultation Be Heard Results

⁶ Appendix Six – Final Draft Order and Map

evidence gathering and consultation. Partners have been consulted and support the introduction of a PSPO.

- 5.2 An Equality Impact Assessment has been completed⁷.
- 5.3 All risks will be managed through the West LCSP and the BCC CST. The West LCSP will monitor the ASB activity, and the CST will track and monitor all breaches.

6 Compliance Issues

- 6.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?
- 6.2 Public Space Protection Orders are a power within the ASB Act 2014 which Local Authorities can use to reduce the impact of Crime and Disorder in accordance with the Crime and Disorder Act 1998.
- 6.3 BCC Priorities – Birmingham is a great place to live. Using powers under the ASB Act support the delivery of this priority to reduce Crime and ASB.
- 6.4 Localism in Birmingham – The PSPO has been requested by the local community and partners to support improvement within the City Centre Neighbourhood.
- 6.5 BCC commitment to work in partnership to reduce Crime and ASB to ensure that Birmingham is a safe place to work and live.

7 Legal Implications

- 7.1 The relevant statutory provisions are contained in The Anti-social Behaviour, Crime and Policing Act 2014, s59 - s75.
- 7.2 A local authority may make a PSPO if satisfied on reasonable grounds that two conditions are met. (s59.1)
- 7.3 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 the area that they will have such an effect. (s59.2)
- 7.4 The second condition is that the effect, or 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 (s59.3)
- 7.5 The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order;

⁷ Appendix Seven – Equality Impact Assessment

- (a) to prevent the detrimental effect referred to (6.2 above) from continuing, occurring, or recurring, or
 - (b) to reduce the detrimental effect or reduce the risk of its continuance, occurrence, or recurrence(s59(4) -(5)
- 7.6 There should be careful consideration of whether the order and each condition is a proportionate and necessary response to what they understand the problems to be.
- 7.7 Failing to comply with the order without reasonable excuse is a criminal offence, penalty is a fine (s67)
- 7.8 Fixed penalty notices may be issued giving a person an opportunity of discharging any liability to conviction for an offence by payment of a fixed penalty to the Council (s68)⁸
- 7.9 Anyone who lives in or regularly works in or visits the area can appeal a PSPO in the High Court within 6 weeks of issue on the following grounds:
- (i) that the Council did not have the power to make the order or to include prohibitions or requirement.
 - (ii) that a requirement under this chapter (Chapter 2 Anti-social Behaviour Crime and Policing Act) was not complied with in relation to the order.
- 7.10 In deciding whether to make a PSPO under s59 and if so, what it should include:
- i)The Council must have regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention (s72(1).
 - ii)The Council must carry out the necessary consultation, publicity, notification (s72(3).
- 7.11 The council must consult with the police; this should be done formally through the chief officer of the police and the Police and Crime Commissioner.
- 7.12 Owners or occupier of land in the proposed restricted area must be consulted (only if, or to the extent that, it is reasonably practicable to consult the owner or occupier of the land) s72.
- 7.13 The council must also consult with whatever community representatives they think appropriate.
- 7.14 The Council must publish the text of a proposed order.
- 7.15 In addition to 7.9(i) above, the Council should also consider Article 9 Freedom of thought conscience and religion rights and Article 8

⁸ Appendix 8 – Copy of the Breach Process

8 Financial Implications

- 8.1 Purchase of signage and leaflets will be required at a cost of £30,000 which will be funded through the Community Safety grant funded budget AVONK. Spend control approval was provided by the S151 board on the 27th of September 2023. Title of request – Community Safety Team Grant Funding.

9 Procurement Implications (if required)

N/A

10 Human Resources Implications (if required)

N/A

11 Appendices

1. Consultation Order Map Area
2. Consultation Order Prohibitions
3. Public Statements
4. Police Support Data
5. Public Consultation Redacted Be Heard Results
6. Final Draft Order and Map
7. Equality Impact Assessment
8. Copy of the Breach Process