

Birmingham City Council

Report to Cabinet Member - Social Justice, Community Safety and Equalities

Date : 15th February 2024



Subject: Moseley and Kings Heath Public Space Protection Order

Report of: Craig Cooper
Strategic Director City Operations

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

Relevant O &S Chair(s): Cllr Shabrana Hussain

Report author: Angela Lamont
Community Safety Partnership Manager
Community Safety Team
City Operations Directorate
Tel no: 07548 123326
Email: angela.lamont@birmingham.gov.uk

Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Moseley, Brandwood & Kings Heath		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
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 has been consulting on proposals to introduce a PSPO in the Moseley and Kings Heath area.
- 1.4 This report sets out the rationale behind the introduction of the proposed PSPO; and the proposed conditions and proposed restricted area, the findings from the recent public consultation exercise, and evidence.
- 1.5 It asks Cabinet members to make any comments and seeks the relevant Cabinet member approval 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 area and the outcome of the formal consultation.
- 2.2 That the Cabinet member approves the recommendation to move forward with the implementation of the PSPO on the basis of the evidence collated and consultation outcome and instructs the Strategic Director of City Operations to proceed with plans to implement the PSPO.

3 Background

- 3.1 In 2022 discussions took place at the South East Local Partnership Delivery Group (LPDG) which identified several problem locations within Moseley, Brandwood & Kings Heath wards.
- 3.2 The high streets in both Moseley & Kings Heath experience many complex and varied issues in relation to anti-social behaviour. Initial discussions with partners concluded that one PSPO area which would cover locations across two neighbourhood policing constituency areas and 2 wards would be proposed.

- 3.3 Throughout 2022-2023 issues around anti-social behaviour/street drinking have continued to be brought to the LPDG/LCSP. But have been dealt with via the use of Community Protection warnings/notices, however a more long term robust solution needed to be considered.
- 3.4 Witness statements from members of the public, residents and local businesses supporting the proposed PSPO have been collated. Witness statements and data have also been provided by the local police teams.
- 3.5 Councillors Knowles and Jenkins (Moseley), Councillor Trickett (Brandwood & Kings Heath), also gave their support to the proposed PSPO. Although Councillor Barker (Brandwood & Kings Heath) was not initially consulted, due to not having been elected ward member when the discussions took place.

4 Consultation

- 4.1 Between 31/07/2023 and 17/09/23 a public consultation took place.
- 4.2 On 31/07/2023 the public consultation went live on Beheard for 7 weeks concluding on 17/09/2023. The public consultation was shared with the 6 Local Community Safety Partnerships, wider partnership groups and Local Councillors.
- 4.3 Throughout the consultation period, BCC Community Safety Team held face to face and public consultations. These included Farmers and Arts markets in Moseley on 26/08/23. Views were sought from members of public and businesses in the area. Also, on 03/08/23 in the Common Room with residents at Harrison House. In addition, the link to the consultation was shared to street watch teams, WhatsApp groups and put on community Facebook groups. Councillor Knowles emailed 650 contacts and put details of the consultation in a leaflet which went to every household (approximately 8,500 in Moseley wards).
- 4.4 The consultation ended on 17/09/2023 with a total 261 responses received through Be Heard.
- 4.5 Of the 261 responses 240 (91.95%) agreed with the introduction of a PSPO, 19 (7.28%) did not agree.
- 4.6 Of the 261 respondents, 203 (77.78%) agreed that the location for the PSPO was correct, 58 (22.22%) did not agree.
- 4.7 Having reviewed the outcome of the consultations, it is appropriate to proceed as recommended in this report.

5 Risk Management

- 5.1 Reputational risk. BCC Community Safety Team have been working with WM Police to develop an evidence package, WM Police have invested resources into this process both for evidence gathering and consultation. Partners have been consulted and support the introduction of a PSPO.

- 5.2 An Equality Impact Assessment has been completed.
- 5.3 All risks will be managed through the South East LCSP and the BCC Community Safety Team. The South East LCSP will monitor the ASB activity, and the Community Safety Team 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?
- 6.1.1 Birmingham City Plan – Of the six key priorities the PSPO will support the delivery of five, these being:- an entrepreneurial city to learn, work and invest in, an aspirational city to grow up in, a fulfilling city to age well in, a great city to live in and residents gaining the maximum benefit from hosting the Commonwealth Games;
- 6.1.2 Localism in Birmingham – The Public Space Protection Order has been requested by the local community and partners to support improvement within the Selly Oak Neighbourhood.
- 6.1.3 Public Spaces Protection Orders are a power within the Anti-social Behaviour Crime and Policing Act 2014 which Local Authorities use to reduce the impact of Crime & Disorder in accordance with the Crime & Disorder Act 1998

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 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 (s59.3)
- 7.5 The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order
- (a) to prevent the detrimental effect referred to (6.2.3 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 are 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)

7.8 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 particular 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.

7.9 In deciding whether to make a PSPO under s59 and if so, what it should include:

i)The Council must have particular 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)).

7.10 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.

7.11 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

7.12 The council must also consult with whatever community representatives they think appropriate.

7.13 The Council must publish the text of a proposed order.

7.14 In addition to 7.9 (i) above the Council should also consider Article 9 Freedom of thought conscience and religion rights and Article.

8 Financial Implications

8.1 Purchase of signage and leaflets will be required at a cost of £15,000 which will be funded through the Community Safety grant funded budget AVONK. Spend control approval was provided. by the S151 board on the 1st of February 2024. Title of request – Mosely and Kings Heath Public Space Protection Order - signage

9 Procurement Implications (if required)

N/A

10 Human Resources Implications (if required)

N/A

11 Appendices

11.1 Be Heard Consultation Results



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Moseley BeHeard Cor

11.2 Proposed Moseley and Kings Heath PSPO Map



Moseley and Kings
Heath map Appendix

11.3 Moseley and Kings Heath PSPO Proposed Prohibitions



Moseley & Kings
Heath PSPO Prohibiti