

**BIRMINGHAM CITY COUNCIL**

**CABINET MEMBER**

**FRIDAY, 01 MARCH 2024 AT 00:00 HOURS**  
**IN CABINET MEMBERS OFFICE, COUNCIL HOUSE, VICTORIA**  
**SQUARE, BIRMINGHAM, B1 1BB**

**A G E N D A**

**3 - 30**

**1 MOSELEY & KINGS HEATH AREA PUBLIC SPACE PROTECTION**  
**ORDER REPORT**

Strategic Director, City Operations



# Birmingham City Council

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

Date : 15<sup>th</sup> 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 1<sup>st</sup> 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**



Kings Heath &  
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



## **Moseley & Kings Heath PSPO consultation**

<https://www.birminghambeheard.org.uk/place/moseley-kings-heath-pspo-consultation>

This report was created on Thursday 05 October 2023 at 08:56

The activity ran from 31/07/2023 to 17/09/2023

Responses to this survey: **261**

### **1: What is your name?**

#### **Name**

There were 255 responses to this part of the question.

### **2: What is your email address?**

#### **Email**

There were 227 responses to this part of the question.

### **3: What is your postcode?**

#### **Postcode**

There were 261 responses to this part of the question.

### **4: If you don't live within the immediate locality of this proposed order please provide the reason and postcode of the location you visit?**

#### **postcode for visitors**

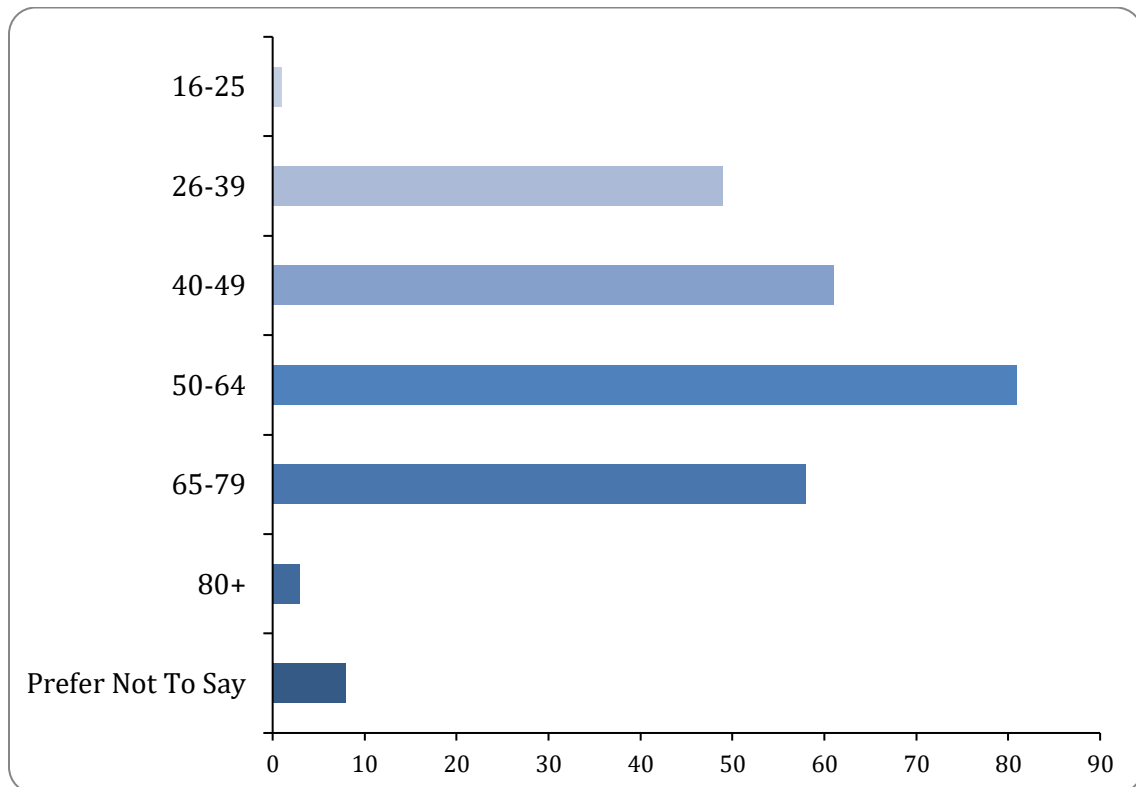
There were 66 responses to this part of the question.

#### **Reason for visit**

There were 41 responses to this part of the question.

## 5: Age age

There were 261 responses to this part of the question.

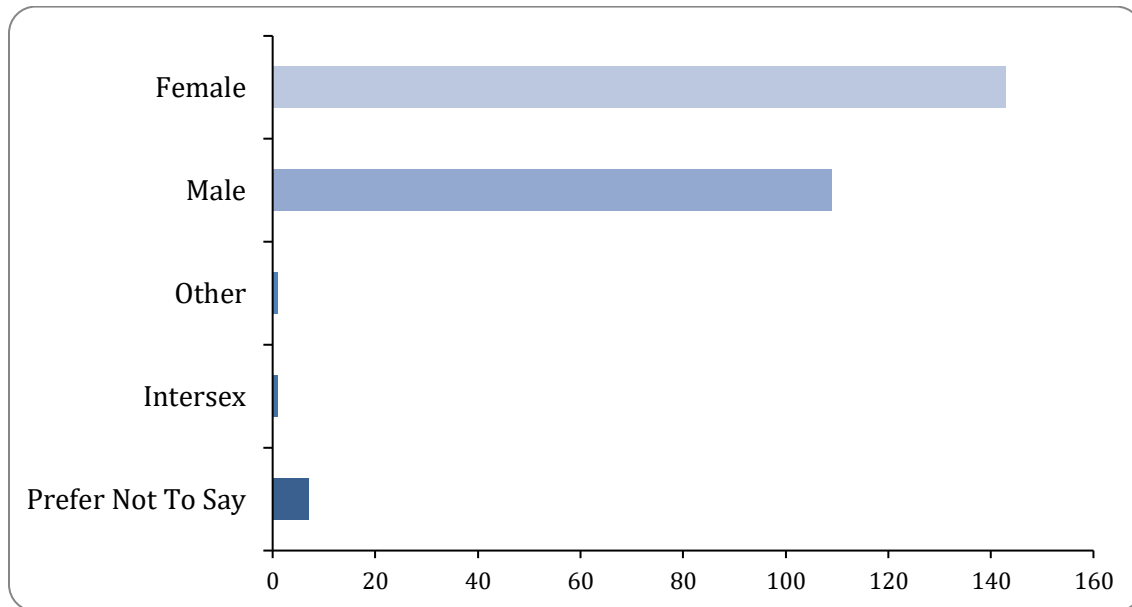


Option	Total	Percent
16-25	1	0.38%
26-39	49	18.77%
40-49	61	23.37%
50-64	81	31.03%
65-79	58	22.22%
80+	3	1.15%
Prefer Not To Say	8	3.07%
Not Answered	0	0.00%

## 6: Gender

### Gender

There were 261 responses to this part of the question.

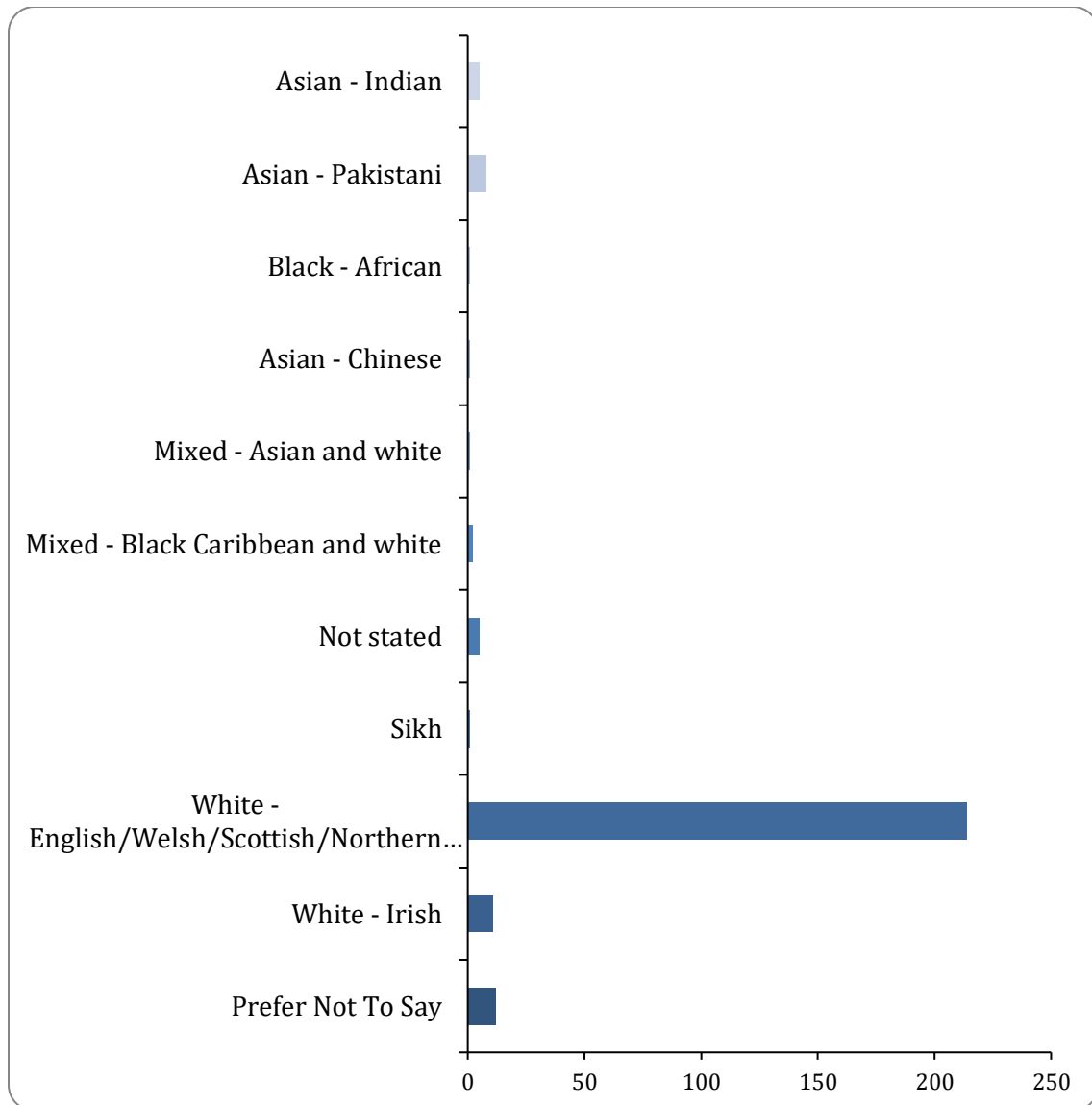


Option	Total	Percent
Female	143	54.79%
Male	109	41.76%
Other	1	0.38%
Intersex	1	0.38%
Third Gender(Gender Queer, Gender Fluid and or Non-Binary)	0	0.00%
Transgender Female	0	0.00%
Transgender Male	0	0.00%
Agender	0	0.00%
Prefer Not To Say	7	2.68%
Not Answered	0	0.00%

## 7: Ethnicity

### Ethnicity

There were 261 responses to this part of the question.



Option	Total	Percent
Asian - Indian	5	1.92%
Asian - Pakistani	8	3.07%
Asian - Bangladeshi	0	0.00%
Black - African	1	0.38%
Black - Caribbean	0	0.00%
Asian - Chinese	1	0.38%
Jewish	0	0.00%
Mixed - Asian and white	1	0.38%
Mixed - Black African and White	0	0.00%
Mixed - Black Caribbean and white	2	0.77%
Not stated	5	1.92%
Other - Arab	0	0.00%

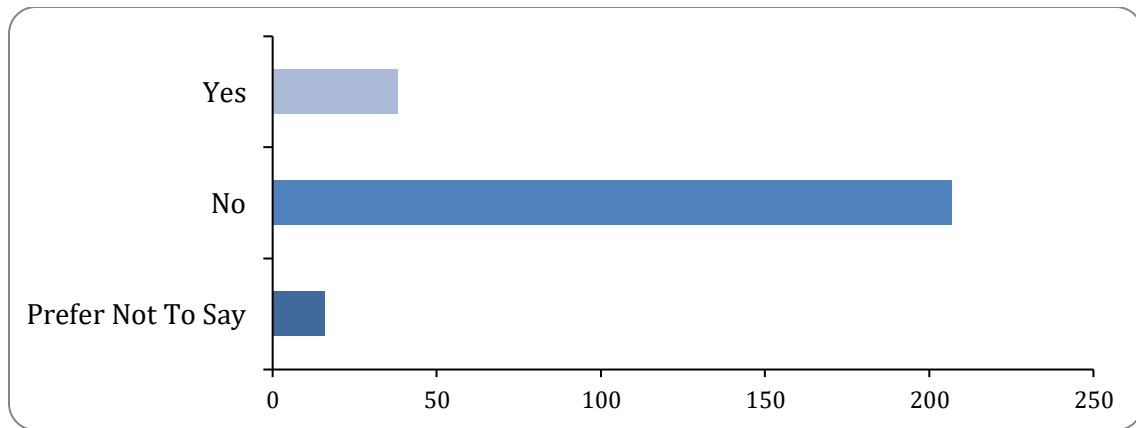
<b>Sikh</b>	1	0.38%
<b>White - English/Welsh/Scottish/Northern Irish/British</b>	214	81.99%
<b>White - Gypsy or Irish traveller</b>	0	0.00%
<b>White - Irish</b>	11	4.21%
<b>Prefer Not To Say</b>	12	4.60%
<b>Not Answered</b>	0	0.00%

## 8: Disability

Under the terms of the Equality Act 2010 a person has a disability if he/she has a physical or mental impairment (including sensory impairment) which has a substantial and long term adverse impact on his/her ability to carry out normal day to day activities. At least one of the following 'normal day to day' must be affected, namely, mobility, manual dexterity, physical coordination, continence, ability to lift, move, carry everyday objects, speech, hearing or eyesight, memory or ability to learn, concentrate and understand, understanding the risk of physical danger.

**Do you consider yourself to be a disabled person as defined above?  
disability**

There were 261 responses to this part of the question.

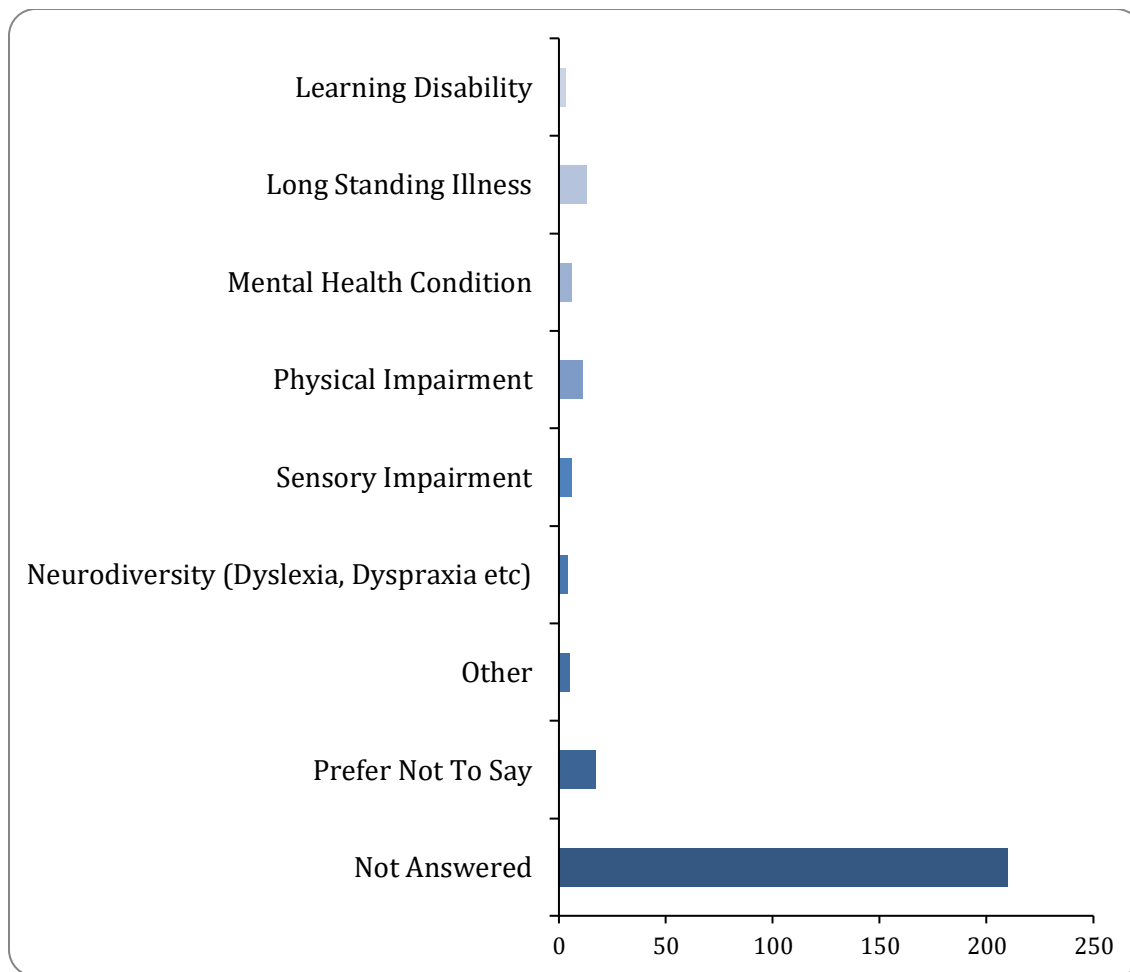


Option	Total	Percent
Yes	38	14.56%
No	207	79.31%
Prefer Not To Say	16	6.13%
Not Answered	0	0.00%

**9: If you have ticked Yes to the above question please pick all that apply below?**

**Disability 2**

There were 51 responses to this part of the question.

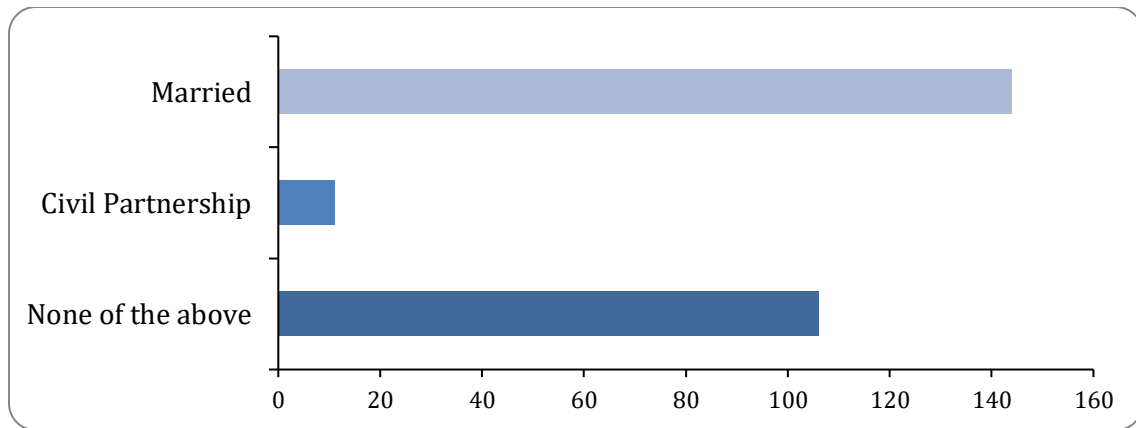


Option	Total	Percent
Learning Disability	3	1.15%
Long Standing Illness	13	4.98%
Mental Health Condition	6	2.30%
Physical Impairment	11	4.21%
Sensory Impairment	6	2.30%
Neurodiversity (Dyslexia, Dyspraxia etc)	4	1.53%
Other	5	1.92%
Prefer Not To Say	17	6.51%
Not Answered	210	80.46%

## 10: Married and Civil Partnership

### married status

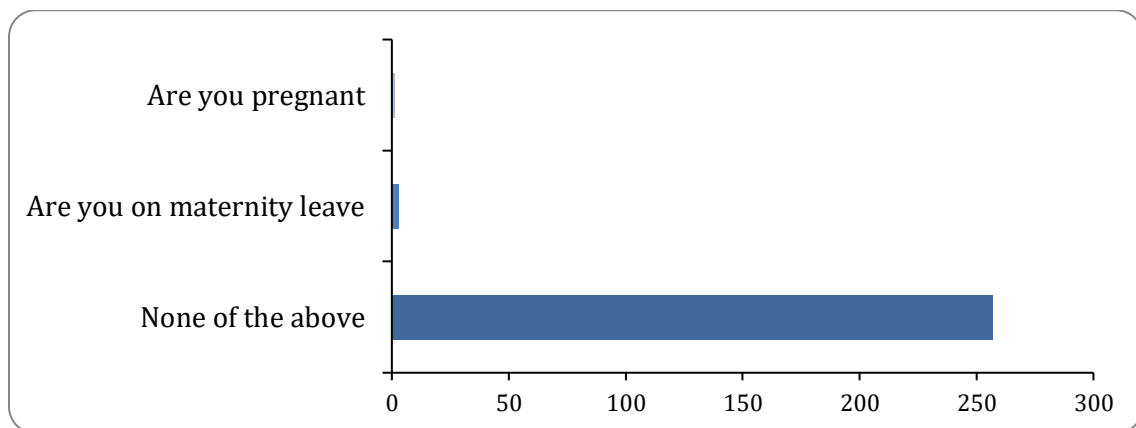
There were 261 responses to this part of the question.



Option	Total	Percent
Married	144	55.17%
Civil Partnership	11	4.21%
None of the above	106	40.61%
Not Answered	0	0.00%

## 11: Pregnancy and Maternity/Paternity pregnancy

There were 261 responses to this part of the question.



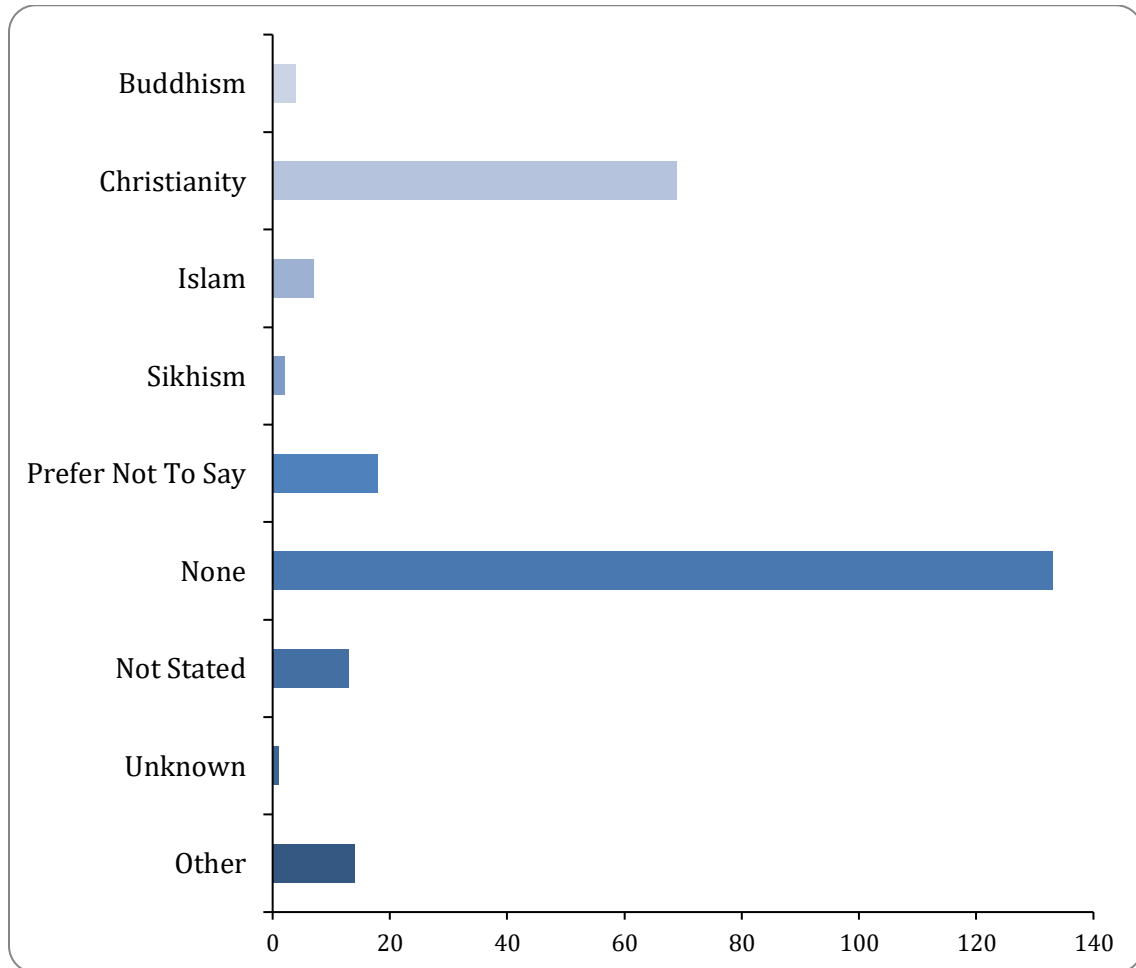
Option	Total	Percent
Are you pregnant	1	0.38%
Are you on maternity leave	3	1.15%
Are you on Paternity Leave	0	0.00%
None of the above	257	98.47%
Not Answered	0	0.00%



## 12: Religion or Belief

### religion

There were 261 responses to this part of the question.



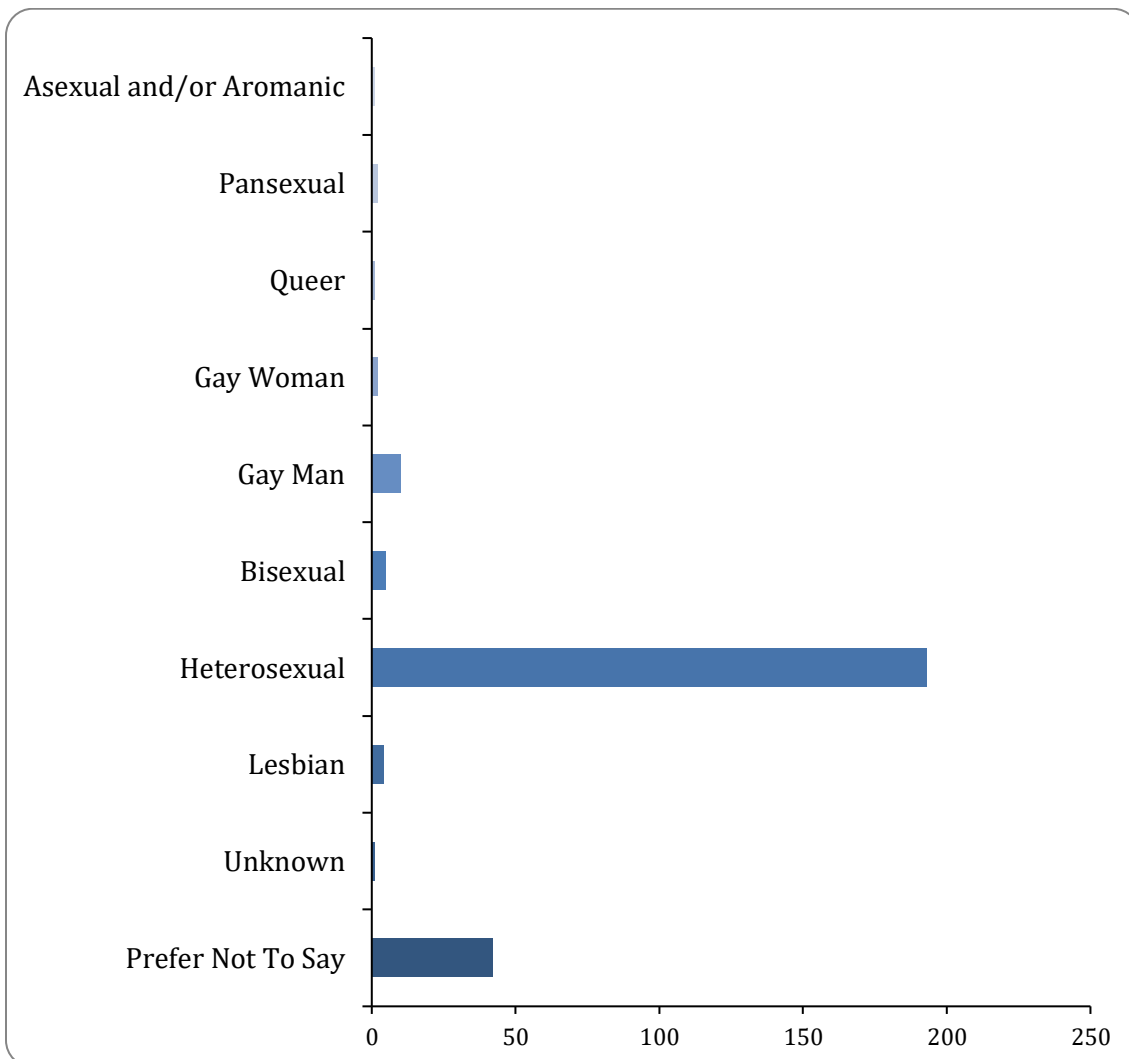
Option	Total	Percent
Buddhism	4	1.53%
Christianity	69	26.44%
Hinduism	0	0.00%
Islam	7	2.68%
Jainism	0	0.00%
Judaism	0	0.00%
Bahai	0	0.00%
Sikhism	2	0.77%

<b>Zoroastrianism</b>	0	0.00%
<b>Prefer Not To Say</b>	18	6.90%
<b>None</b>	133	50.96%
<b>Not Stated</b>	13	4.98%
<b>Unknown</b>	1	0.38%
<b>Other</b>	14	5.36%
<b>Not Answered</b>	0	0.00%

### 13: Sexual Orientation

#### Sexuality

There were 261 responses to this part of the question.



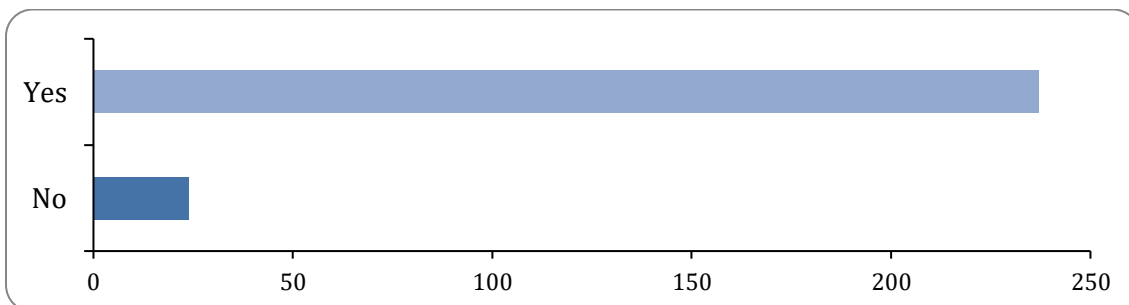
Option	Total	Percent
Asexual and/or Aromantic	1	0.38%
Pansexual	2	0.77%
Queer	1	0.38%
Gay Woman	2	0.77%
Gay Man	10	3.83%
Bisexual	5	1.92%
Heterosexual	193	73.95%
Lesbian	4	1.53%
Other	0	0.00%
Unknown	1	0.38%
Prefer Not To Say	42	16.09%
Not Answered	0	0.00%

14: Are you or are you not familiar with the PSPO legislation if NO please follow the following link for further details:

[https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance\\_06\\_1.pdf](https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf)

Do you know what a PSPO is.

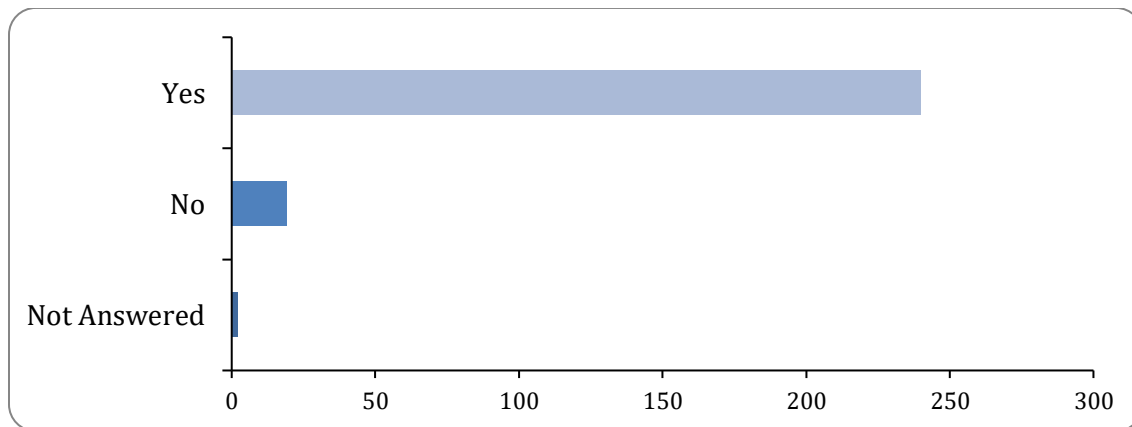
There were 261 responses to this part of the question.



Option	Total	Percent
Yes	237	90.80%
No	24	9.20%
Not Answered	0	0.00%

**15: Do you think a Public Space Protection Order is the right tool to use to tackle ASB in the area, outlined in the attached document?**  
**is the right power to use to tackle ASB**

There were 259 responses to this part of the question.

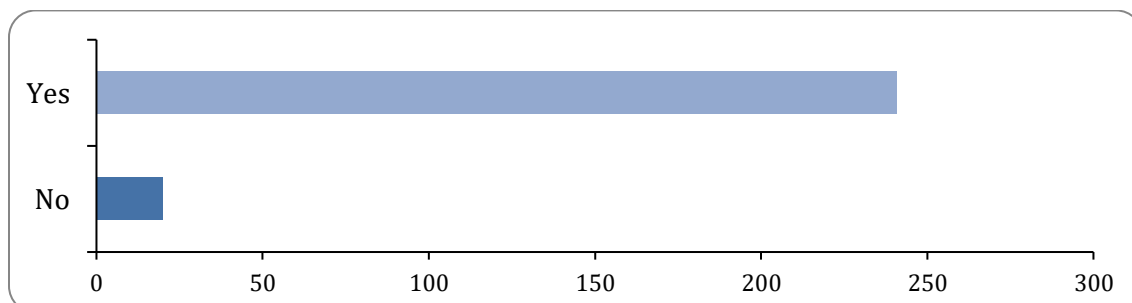


Option	Total	Percent
Yes	240	91.95%
No	19	7.28%
Not Answered	2	0.77%

**16: Do you agree with the proposed prohibitions included in the order which can be found in the attached document?**

**Agree with prohibitions**

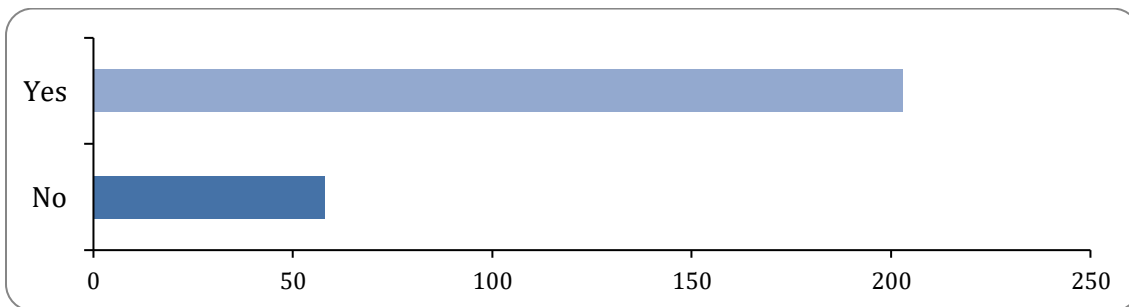
There were 261 responses to this part of the question.



Option	Total	Percent
Yes	241	92.34%
No	20	7.66%
Not Answered	0	0.00%

**17: Is the proposed exclusion zone map the correct size and geographic location in order to tackle ASB in the Moseley & Kings Heath areas right types of ASB**

There were 261 responses to this part of the question.



Option	Total	Percent
Yes	203	77.78%
No	58	22.22%
Not Answered	0	0.00%

**18: Please comment on any aspect of the draft order you think could be improved or anything you feel has been missed or if you think this is the wrong approach and we should be looking at other ways to tackle ASB in the Moseley & Kings Heath areas?**

**Comments**

There were 261 responses to this part of the question.

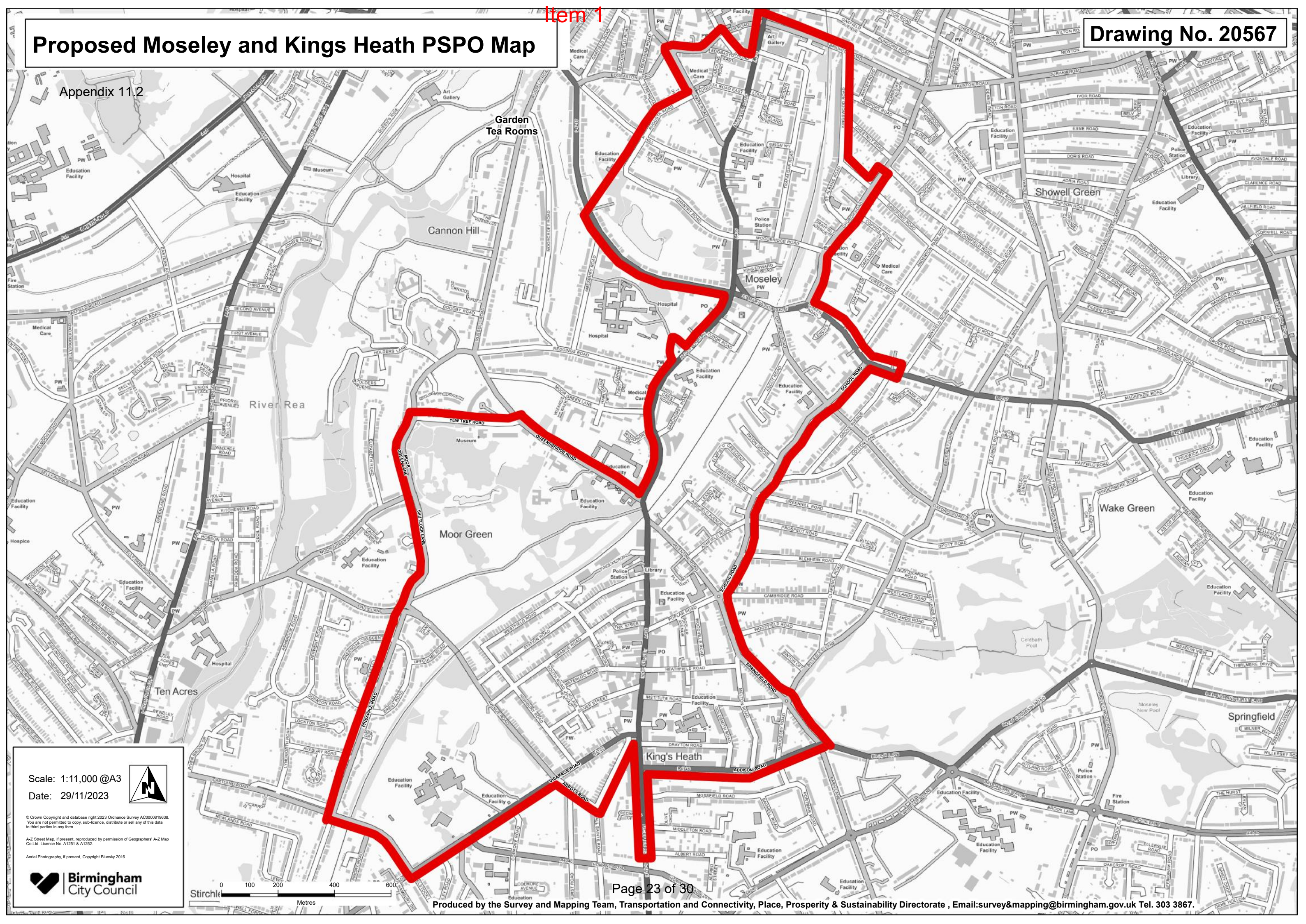




# Proposed Moseley and Kings Heath PSPO Map

Drawing No. 20567

Appendix 11.2



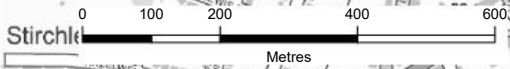
Scale: 1:11,000 @A3  
Date: 29/11/2023



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Ref: Moseley & Kings Heath

**Birmingham City Council (Moseley & Kings Heath) Public Space  
Protection Order**

**Anti-Social Behaviour, Crime and Policing Act 2014 – Section 59**

**Public Space Protection Order**

**The Order shall come into force on \*\*\*\*\* at 00.00hrs**

**If you do not obey the order you will be committing a criminal offence and may be prosecuted by the Council within a Magistrates' Court for an offence under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014.**

THIS ORDER is made by Birmingham City Council (the Council) under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014, because the council is satisfied on reasonable grounds that there are a number of activities, carried out or are likely to be carried out in a public space namely the area within and surrounding Moseley & Kings Heath shown outlined on the map attached ( the restricted area) that 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 these activities is of a persistent or continuing nature such as to make these activities unreasonable, and justifies the restrictions imposed in this order.

These activities include:

- Groups causing Anti-Social behaviour
- Being under the influence of intoxicating substance and/or alcohol while in a public place.
- Damage or destruction of property (graffiti)

**THIS ORDER PROHIBITS** the following things being done in any public space in the restricted area

**AND REQUIRES** specified things to be done by persons carrying on specified activities in the Restricted Area.

### **Definitions**

"Authorised Person" means a Police Constable, Police Community Support Officer or Council Officer, and must be able to present their authority upon request

"Intoxicating Substances" means controlled drugs within the meaning of s.37(1), Misuse of Drugs Act 1971 and includes psychoactive substances within the meaning of s.59, Psychoactive Substances Act 2016.

"Restricted Area" shown outlined on the map attached.

### **1. Groups**

a) An Authorised Person may require an individual, or a group, within the Restricted Area to leave the Restricted Area, where he reasonably suspects that that individual or any person within that group is causing or likely to cause nuisance or disorder, or harassment, alarm or distress to any other person.

b) An individual or group required to leave the Restricted Area by an Authorised Person is

(i) prohibited from remaining within the Restricted Area, and

(ii) required to leave that area immediately, and

(iii) prohibited from returning to the Restricted Area within 24 hours of being required to leave.

c) An individual will not breach paragraph 1(b)(ii), if he attends a railway station, bus-stop or tram-stop within the Restricted Area for the purpose of taking public transport out of the Restricted Area, so long as he is not accompanied by any other person who has also been required to leave the Restricted Area (except for a dependent person).

### **2. Intoxicating Substances**

a) It is prohibited for any person to possess or consume in any manner an Intoxicating Substance within the Restricted Area, except a prescription drug which has been prescribed for his use.

b) It is prohibited for any person to be under the influence of an Intoxicating Substance within the Restricted Area, except a prescription drug which has been prescribed for his use.

c) It is prohibited for any person to sell or supply any Intoxicating Substance within the Restricted Area, except a pharmacist who does so in fulfilment of a medical prescription

### **3. Alcohol**

a) If an Authorised Officer reasonably suspects that a person who is or has been drinking alcohol in the open air within the Restricted Area is causing or likely to cause a nuisance or disorder, he may request the person to

(i) stop drinking alcohol within the Restricted Area; and/or

(ii) hand to the Authorised Person any container of alcohol in his possession, whether or not it has been opened, and even if it is empty.

b) A person who has been requested to do either or both of the things referred to at paragraph 3(a) above, is required to comply with such a request immediately.

c) For the purposes of this paragraph, the Restricted Area does not include frontages covered by a current authority to sell or supply alcohol under the Licensing Act 2003, or an area covered by a pavement licence.

### **4. Graffiti**

a) A person is prohibited from marking any surface within the Restricted Area with any form of unauthorised graffiti.

b) Where an Authorised Person reasonably suspects that a person is using or is likely to use any item to mark any surface with unauthorised graffiti, he may require the person to surrender that item to him.

c) A person required by an Authorised Person to surrender any item must do so immediately.

THIS ORDER WILL BE IN FORCE FOR A PERIOD OF 3 YEARS AND WILL EXPIRE ON  
\*\*\*\*\*

### **Right to challenge the validity of this order**

An interested person may apply to the High Court to question the validity of this order. An interested person is someone who lives in, regularly works in, or visits the restricted area. An application must be made within the period of 6 weeks beginning with the date on which the Order is made. This right to challenge also exists where an order is varied by a council.

Interested persons can challenge the validity of a PSPO on two grounds. They could argue that the council did not have power to make the order, or to include particular prohibitions or requirements. In addition, the interested person could argue that one of the requirements (for instance, consultation) had not been complied with.

When the application is made, the High Court can decide to suspend the operation of the PSPO pending the verdict in part or in totality. The High Court has the ability to uphold the PSPO, quash it, or vary it.

SIGNED

DATED

Duly Authorised Officer  
Director of City Operations  
City Operations Directorate

SIGNED

DATED

Duly Authorised Officer  
West Midlands Police

Any enquiry relating to this order may be made from 09.00 – 16.00 hours Monday to Friday at:

CSP Enquiries [cspenquiries@birmingham.gov.uk](mailto:cspenquiries@birmingham.gov.uk)

### **Offence and Penalty on breach.**

It is an offence for a person, without reasonable excuse, to:

- Do anything that the person is prohibited from doing by a PSPO (other than consume alcohol - see below); or
- Fail to comply with a requirement to which the person is subject under a PSPO.

A person does not commit an offence by failing to comply with a prohibition or requirement that the Council did not have power to include in the PSPO. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Consuming alcohol in breach of a public space protection order is not an offence under s67 of the Act. However, under s63 of the Act it is an offence to fail to comply with a request by a constable or authorised person to cease drinking or surrender alcohol that a person is or has been or intends to drink in breach of the prohibition in the PSPO. This is also liable on summary conviction to a fine not exceeding level 2 on the standard scale. If alcohol is confiscated, it can be disposed of by the person who confiscates it.

Depending on the behaviour in question, the enforcing officer could decide that a fixed penalty notice (FPN) would be the most appropriate sanction. The FPN can be issued by a police officer, or other authorised person. In making the decision to issue a FPN, the officer should consider that if issued, payment of the FPN would discharge any liability to conviction for the offence. However, where the FPN is not paid within the required timescale, court proceedings can be initiated (prosecution for the offence or failing to comply with the PSPO).

MAP

