

<b>Report To:</b>	<b>FULL COUNCIL</b>	<b>Date:</b>	<b>26 APRIL 2018</b>
<b>Heading:</b>	<b>PUBLIC SPACES PROTECTION ORDER (PSPO) – CAR CRUISING</b>		
<b>Portfolio Holder:</b>	<b>CLLR N NDIWENI</b>		
<b>Ward/s:</b>	<b>UNDERWOOD, ANNESLEY AND KIRKBY WOODHOUSE</b>		
<b>Key Decision:</b>	<b>YES</b>		
<b>Subject to Call-In:</b>	<b>No</b>		

### **Purpose of Report**

The purpose of this report is to seek approval from Council to enact the Public Spaces Protection Order (PSPO) to prohibit people from engaging in, encouraging or assisting in the carrying out of any 'car cruising' events on the public highway, and other land to which the public has access, as detailed in the drafted PSPO at Appendix 1.

This is following previous Council approval, however due to an administrative error regarding the timetable could not be implemented.

### **Recommendation(s)**

- 1) To enact a Public Spaces Protection Order (as per Appendix 1) on or after the 27 April 2018. The PSPO will prohibit people from engaging in, encouraging or assisting in the carrying out of any 'car cruising' events on the public highway, and other land to which the public has access, as detailed in the Order (Appendix 1).
- 2) To reconfirm that appropriate awareness raising takes place including signage at appropriate locations within the mapped area.

### **Reasons for Recommendation(s)**

Council previously approved enacting a Public Spaces Protection Order (PSPO) including approval for the required associated signage and publicity. The position regarding the need for the PSPO remains unchanged which enables primarily the Police to utilise additional enforcement tools if people engage in, encourage or assist in the carrying out of any 'car cruising' events on the public highway and other land to which the public has access within the mapped area.

## **Alternative Options Considered**

*(with reasons why not adopted)*

There are limited enforcement powers under alternative existing legislation available to tackle the problem; this will lead to an ongoing operational gap brought about by end of the Section 222 injunction which ceased during January 2018. Nottinghamshire County Council confirmed that they did not intend to apply for renewal or extension of the injunction.

## **Detailed Information**

Under the Anti-Social Behaviour, Crime and Policing Act 2014, Public Spaces Protection Orders (PSPOs) are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone.

Car Cruising at Junction 27 of the M1 Motorway and the A611 (between Annesley and Hucknall) has been a significant problem for a number of years. In 2015 Nottinghamshire County Council presented evidence to Nottingham County Court sufficient to support the granting of the Section 222 injunction. The injunction expired on 16 January 2018. During 2017 large numbers of drivers have gathered in breach of the injunction causing distress and nuisance to local residents. Whilst the Police took action, representatives from the Police reported that enforcement of the injunction was bureaucratic and lengthy, requiring numerous conditions to be met before enforcement action could be taken to address the problem.

Consultation on the Draft Public Spaces Protection Order ended during January 2018. There was no opposition to the proposal and all of the comments received, including from the Police and Crime Commissioner and Nottinghamshire Police fully endorsed all aspects of the Order.

Over the last two weeks Car Cruising and associated issues have resurfaced at this location. It was reported that there were 30 high specification vehicles parked at the junction and racing audible. The Police have subsequently scheduled targeted activity on specific dates when 'meets' are indicated to be taking place over the next few months.

The Police are keen to make use of the powers once in place. It is anticipated that the majority of the enforcement relating to the proposed PSPO will be carried out by the Police. Powers to enforce the PSPO will also be given to the Council's Community Protection Officers, who will be able to assist Nottinghamshire Police, and dependent upon necessary risk assessments may be able to conduct enforcement themselves.

Given the ongoing problem with car cruising around Junction 27, the PSPO to tackle this issue is the most practicable option to address the issues.

## **Implications**

### **Corporate Plan:**

The PSPO will help support the Council's Place aspirations and improve the quality of life for residents affected by this issue. This will help to ensure an effective response by working with our partners to ensure people feel safe and are safe by reducing levels of crime and disorder and tackling this public nuisance. As per the Corporate Plan we work with our partners to design services around the needs of individuals and places, rather than institutions; ensuring our financial resources are used in the most effective way.

## Legal:

The Council have the power to make a PSPO in accordance with sections 59 to 65 of the Anti Social Behaviour Crime and Policing Act 2014. The PSPO can be made if the local authority are satisfied on reasonable grounds that two conditions are met;

1. Activities being carried on, or that are likely to be carried on, in a public place within the authorities area have a detrimental effect on the quality of life of those in the locality and;
2. The effect, or likely effect of such activities are of a persistent or continuing nature, such as to make the activities unreasonable and justifies the restrictions with the order.

A process of consultation as set out in the Act must be carried out prior to making the Order.

The current PSPO which deals with alcohol consumption in designated areas, prohibition of urinating and defecating in public areas and various dog-related issues, came into force on 1st October 2015.

The resources required for enforcement/prosecutions is to some extent an unknown quantity. However, discussion with a number of local authorities concerning the implementation of such PSPOs has indicated that this has been a success, but with minimal prosecutions resulting from the service of FPNs. Failure to comply with either a prohibition, or requirement stated within the order is an offence. Upon summary conviction (offences heard within the Magistrates Court) defendants can face a fine up to £1,000. Subsequent breaches of the order can also be discharged by use of a Fixed Penalty Notice (FPN). The authority has the option to either prosecute or issue an FPN to discharge liability to convict (s67 & 68 of the ASB, Crime and Policing Act).

An interested person (as defined in the Act) may challenge the validity of the Order within 6 weeks of the order being made by way of challenge in the High Court.

The Act also requires the Council, in considering the making of and contents of a PSPO, to have particular regard to certain human rights, namely, freedom of expression and freedom of assembly.

## Finance:

**Enforcement:** The majority of time required to issue fixed penalty notices would be undertaken by Nottinghamshire Police. The Council's Community Protection Officers will also be authorised to serve such notices. Any additional burden for the Council would be officer and legal time to take prosecution action in respect of non-payment of fixed penalty notices.

There would be a financial burden on the Council's Legal team in terms of preparation of Court files and prosecution. It is difficult to estimate the number of likely number of cases due to the effectiveness of the current injunction. However, discussion with Local Authorities that have already implemented PSPOs for car cruising has revealed that prosecution cases following the issue of Fixed Penalty Notices are at a very low level.

Budget Area	Implication
General Fund – Revenue Budget	<b>Advertising.</b> Public notices in the newspaper £180. Required post Council to inform of PSPO being enacted.. <b>Signage:</b> New signs would have to be designed, purchased and erected. Around 20-30 signs would be

	<p>required in respect of car cruising. It is estimated that this would cost in the region of £1,300.</p> <p>The signage costs have been funded through Community Safety budgets. Additional funding for Community Safety was received from Nottinghamshire County Council, and was used for this purpose.</p>
General Fund – Capital Programme	
Housing Revenue Account – Revenue Budget	
Housing Revenue Account – Capital Programme	

**Risk:**

<b>Risk</b>	<b>Mitigation</b>
Public safety risks from car cruising should there be no PSPO or injunction in place to control car cruisers	Nottinghamshire Police would still have powers to deal with dangerous driving, speeding etc. Although these powers are not as effective or easy to enforce, they would still have an impact on dealing with car cruising.
Council reputational risk in terms of effective partnership working and in the event of a serious accident, injury or death.	Implementing a new PSPO provides opportunity for excellent ongoing joint approach to tackling ASB as part of the Ashfield Community Safety Partnership.
Implementation of a new PSPO will displace car cruising activities to other areas of the District.	Local knowledge would suggest that any displacement is unlikely to be in the Ashfield District. Neighbouring districts are submitting similar applications to address potential displacement. Nottinghamshire Police would still have powers to deal with dangerous driving, speeding etc. Although these powers are not as effective or easy to enforce, they would still have an impact on dealing with car cruising.

**Human Resources:**

Impacts of introducing a new PSPO for car cruising would potentially give an additional burden in respect of CPOs and the Council’s legal team. This relates to time to drafting the notice, officer time for consultation exercise, consideration of responses received, and to provide written responses where necessary, Officer time in the service of FPNs, processing of statements/cases and legal time to process and take legal cases to Court. It is anticipated however that Nottinghamshire Police be the primary enforcing agency for the proposed PSPO.

**Equalities:**

In recommending consultation of the proposed PSPO, consideration has also been had to Articles 10 and 11 of the Human Rights Act 1998 which allows the rights to expression and assembly. However, the Human Rights Act does allow restriction of these human rights for the purposes of the prevention of crime and disorder, or to protect the health or the rights and freedoms

of others. The proposals in the PSPOs are intended to ensure that the anti-social behaviours caused by the activities are addressed so that public spaces can be enjoyed without fear or intimidation by the law-abiding majority of the community.

**Other Implications:**

The PSPO is seeking to address issues which impact on quality of life and public safety. These issues can affect both the physical and mental well-being of residents and therefore these proposals would have a significant impact on community well-being.

**Reason(s) for Urgency**

*Not applicable*

**Reason(s) for Exemption**

*Not applicable*

**Background Papers**

*Not applicable*

**Report Author and Contact Officer**

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