Public Spaces Protection Order Consultation

<table>
<thead>
<tr>
<th>The Reason for the Decision</th>
<th>To seek approval to draft, consult upon and publicise a gated Public Spaces Protection Order in relation to antisocial behaviour, pursuant to powers contained in section 59 to 65 of the Anti-Social Behaviour, Crime and Policing Act 2014.</th>
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<tbody>
<tr>
<td>Summary of options considered</td>
<td>To approve the initiation of a public consultation on the creation of a Public Spaces Protection Order to the rear of Murray Road.</td>
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<td>Not to approve the initiation of a public consultation on the creation of a Public Spaces Protection Order to the rear of Murray Road.</td>
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<td>Recommendations</td>
<td>That the Executive approves the initiation of a public consultation on the creation of a Public Spaces Protection Order within St Michael’s Ward to the rear of Murray Road, Workington as outlined on the plan at Appendix 1. This involves the gating of the alleyway to the rear of Murray Road, Workington.</td>
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<td>That it is noted that following the period of consultation, comments will be reviewed and amendments considered before seeking ratification of the Order.</td>
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<td>Financial / Resource Implications</td>
<td>There will be a cost associated with the consultation. Should the application proceed at a later date, there will be a cost for advertising in the local newspaper. The Authority also plans to make a contribution of £2000 towards manufacturing the gates. Discussion with other local authorities suggests that the total cost of consultation and advertising is in the region of £3000 to £4000 which the Authority is responsible for.</td>
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                               | b) Human Rights (see body of report)  
                               | c) Equality and Diversity (see body of report) |
The purpose of the proposed PSPO is to reduce Crime and Disorder in the area of Murray Road and Upton Street, Workington.

Discussions are ongoing in respect of responsibility for maintenance of the gates. If the Rotary rescind their original offer to maintain the gates, the responsibility and liability will fall to the Council. The implications of this additional responsibility and liability will need to be considered before seeking ratification of the Order.

The Equality Duty has been considered.

St Michael’s ward

Reduction of Crime and Disorder in the Allerdale area. Development of Town Centres, encouraging businesses and making them safe.

Yes

Phil Tibble

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Background papers: Victim Impact Statements, Invoices, Letter of Complaint, Photographs, police logs – All background papers are Exempt Information under paragraph 1 of Schedule 12A of the Local Government Act 1972.

1.0 Introduction

1.1 The purpose of this report is to seek approval to draft, consult upon and publicise a Public Space Protection Order (PSPO) pursuant to powers

1.2 The PSPO is in respect of a gated area in one defined area, to the rear of Murray Road, Workington. This will gate the alley which runs between the Cumberland Building Society on Murray Road, and Argos on Upton Street (plan attached).

2.0 Background

2.1 The Anti-social Behaviour, Crime and Policing Act 2014 enacted powers to create Public Space Protection Orders (PSPO). The purpose of a PSPO is to stop individuals or groups committing anti-social behaviour in a public space. They are designed to ensure the law-abiding majority can use and enjoy public spaces, without having to experience anti-social behaviour.

2.2 It is proposed to gate the alley which runs between the Cumberland Building Society on Murray Road and Argos on Upton Street. A map defining the location and showing the points where it is proposed to erect gates to restrict public access is shown at Appendix 1.

2.3 The PSPO is now the legislation to be used for restricting access. In the past Gating Orders have been used to close access to certain areas where there is clear evidence of anti-social behaviour in that locality. Restrictions and requirements can be placed on an area where activities have, or are likely to have, a detrimental effect on the quality of life of local people, are persistent or continuing in nature and is unreasonable. The Home Office Guidance is not specific on what can be included in a PSPO as they have been designed to be flexible to the needs of a local area’s problems.

2.4 Local councils are responsible for making PSPOs and can make an order on any public space within its area. As part of the process the Council must carry out consultation. This needs to be done with the local police (through the Chief of Police and the Police and Crime Commissioner), landowners and community representatives as appropriate. The landowner for the alleyway in question is unknown as the land is unregistered. Given the nature of the order, it is proposed to consult widely and give sufficient time for people to make representations. Subject to approval from the Executive, a six week consultation period is proposed. This should also give any potential landowner the opportunity to come forward if necessary.

2.5 Evidence has been received which suggest that there is ongoing anti-social behaviour in the area in question, and complaints from local businesses have led to the request for a PSPO.

2.6 Various representations have been received from local businesses which would be affected by closing off the access to the rear of Murray Road. These include Subway, Greggs, Taylor Rose Solicitors, Lloyds, Sole It Lock It, Argos, Carphone Warehouse, Cumberland Building Society and the Alzheimer’s Society. They are all in favour of putting in place a long-term solution to the
difficulties encountered by anti-social behaviour in the area in question. Currently, due to the number of ASB incidents, business owners/managers are concerned for their staff going out into the alleyway, particularly when it is dark, due to the people who can be found there. There are also other issues around the cost of expending extra resources to tidy the area when bins have been overturned, as well as graffiti and criminal damage to the rear of the shops. These issues have been ongoing over a number of months.

2.7 The crime and ASB recorded by the police between 4 February 2014 and 22 November 2016 is appended in summary at Appendix 2.

2.8 It is sometimes difficult to attribute crime and ASB to the alleyway itself, as it is often not recorded in this specific location. However, the overriding anecdotal evidence is that the level of anti-social behaviour arising in the locality generally warrants restricting public access. There is currently unrestricted public access to the area and no CCTV coverage of the area.

2.9 The proposal is to erect two gates (one near the Cumberland Building Society and one near Argos). The gates would be locked permanently. Keys would be distributed to businesses who require access and they would lock the gates after use.

2.10 It is an offence for a person, without reasonable excuse, to do anything that a person is prohibited from doing by the order or fail to comply with a requirement to which a person is subject under the order. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1000).

2.11 Enforcement can be undertaken by the police and council staff. Depending upon the behaviour and circumstances in question, an authorised officer can issue a Fixed Penalty Notice (FPN) of up to £100. Payment of the Fixed Penalty Notice within 14 days would discharge liability to conviction for the offence. Where the FPN remains unpaid, court proceedings could be initiated.

2.12 Cost implications of erecting and maintaining the gates is covered under section 5, financial implications.

2.13 In accordance with statutory requirements, prior to approval of a PSPO, the Council is required to undertake formal consultation. The Act does not define the level of, or appropriate consultation. However, the Council will consult with the Chief Officer of Police, the County Council, the Town Council, the Fire Service, businesses, partnerships and local communities and community representatives.

2.14 The consultation and implementation timetable is as follows:

15 February 2017 – Executive consider PSPO and approve consultation process.
15 February 2017 to - 28 February 2017 – call in period.

1 March 2017 – Consultation starts.

11th April 2017 – Consultation ends.

12 April 2017 to 18 April 2017 – Consultation considered and amendments made to proposed PSPO.

Next available date after 18 April 2017 – Executive considers approval of PSPO.

3.0 Options Available

3.1 To approve the initiation of public consultation on the creation of a Public Spaces Protection Order within St Michael’s Ward to incorporate the specific prohibitions in the specific area as outlined in the recommendation at 2.0 above.

3.2 Not to approve the initiation of public consultation on the creation of a Public Spaces Protection order within St Michael’s Ward to incorporate the specific prohibitions in the specific area as outlined in the recommendation at 2.0 above.

4.0 Finance/Resource Implications

5.1 The amounts required to undertake the consultation for the proposed PSPO will be found from the Community Safety budget.

Signage will be required. More research is required about the minimum expectations for signage, locations and cost for signs and erection. This will be available in time for the report seeking approval to grant the PSPO but, based on information gleaned from other local authorities, is expected to be around £3000 - £4000. This does not include costs for taking down and erection of signs.

The responsibility of the cost of installing the gates will be split between Workington Town Council and Allerdale Borough Council. The estimated cost to Allerdale Borough Council is £3000 to £4000.

There is a need to consider future maintenance requirements of the proposed gates at the rear of Murray Road. The intention is for the Rotary to take responsibility for the maintenance and the businesses to have responsibility for opening and closing the gates. A long term solution for ensuring the maintenance of the gates and that they adhere to health and safety requirements will be sought during the period of consultation and reported further in the report to adopt the PSPO. If agreement cannot be reached with the Rotary in respect of maintenance of the gates, the responsibility and liability will fall to the Council. The implications of this additional responsibility and liability will need to be considered before seeking ratification of the Order.
The intention is that the PSPO will assist police and council colleagues in maintaining good public order and thereby supporting the economic sustainability of Workington town centre, the quality of life for town centre users and residents, and hopefully through engagement with perpetrators a rehabilitation path for them.

5.0 Legal Implications and Risks

<table>
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<tr>
<th>Risk</th>
<th>Risk Assessment</th>
<th>Risk Level</th>
<th>Risk Management</th>
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<tbody>
<tr>
<td>Reputation and Service Delivery if approval granted</td>
<td>Actions and areas identified for inclusion in the PSPO are not comprehensive and fail to include problematic issues or areas.</td>
<td>Low</td>
<td>We regularly liaise with Partners including police and so are aware of the latest problematic areas. The consultation period will provide an opportunity for anyone to suggest new areas for consideration for inclusion in the PSPO.</td>
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<tr>
<td>Reputation and Service Delivery if approval granted</td>
<td>Actions and areas identified for inclusion in the PSPO are not supported by partners and or communities.</td>
<td>Low</td>
<td>We regularly liaise with Partners including police and so are aware of the latest problematic areas. The consultation period will provide an opportunity for anyone to put forward an alternative view about the suggested inclusions in the PSPO and these will be considered prior to applying for approval of the PSPO.</td>
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<td>Reputation if approval not granted for PSPO consultation</td>
<td>The council’s reputation as a key partner in maintaining community safety may be impaired if approval to progress to a PSPO is not granted. As a local authority, the council has been granted powers to make a PSPO under the new Anti-social Behaviour, Crime and Policing Act 2014.</td>
<td>Low</td>
<td>The council has reducing crime and disorder as a key objective and there is a strong likelihood that approval will be granted for the PSPO consultation or an appropriate alternative considered depending on consideration of all relevant matters</td>
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<td>Reputation if the proposed gates do not adequately enforce the PSPO</td>
<td>A breach of the PSPO could result in the issue of Fixed Penalty Notice or a fine. The Council’s enforcement policy states that “where an offence is committed by a person under 16 years of age, the Council will not generally</td>
<td>Low</td>
<td>Discussions with the police regarding their process and ensuring that it is in line with the Council’s enforcement policy.</td>
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issue a Fixed Penalty Notice for a first offence”. There is a potential reputational risk should the police not adhere to the Council’s policy in enforcing any breach.

5.2 PSPOs are a result of new legislation and may be tested through the courts, which may require the Council to revisit the details of the order in the future.

5.3

a. Relevant Legislation

Anti-social Behaviour, Crime and Policing Act 2014

In order to make the PSPO, the Council would need to be satisfied that the legal conditions have been met. The test is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities. A PSPO can be made by the Council if they are satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed.

It is considered that the issues facing the Town Centre meet these tests and sufficient evidence has been provided by the police.

b. Human Rights

There are no Human Rights issues with regard to granting approval for consultation on a Public Spaces Protection Order. However, the introduction of a Public Spaces Protection Order by its nature will prohibit specified activities, deemed to have a detrimental effect on the quality of life of those in the locality in defined areas. The consultation period will provide an opportunity for partners and communities to support or object to the proposed PSPO. In assessing the different requirements and prohibitions to be contained within the PSPO, the area for proposed inclusion is based upon evidence of anti-social behaviour and the detrimental impact of those behaviours upon individuals and communities including businesses.

c. Equality and Diversity

There are no equality and diversity issues with regard to granting approval for consultation on a PSPO. However, the introduction of a PSPO by its nature may be more relevant to community members with specific protected characteristics, e.g. age. Evidence that activities are unreasonable and the
impact they are having on the quality of life of those in the locality will be assessed to adjudge whether the proposed PSPO is justified.

6.0 Consultation

Consultation will include, but not be limited to:

- Chief Officer of Police
- Police and Crime Commissioner
- West Cumbria Community Safety Partnership
- Cumbria County Council
- Local Communities
- Local Businesses
- Fire Service

7.0 Recommendations

7.1 That the Executive approves the initiation of a public consultation on the creation of a Public Spaces Protection Order within St Michael’s Ward to the rear of Murray Road, Workington as outlined on the plan at Appendix 1. This involves the gating of the alleyway to the rear of Murray Road, Workington.

7.2 That it is noted that following the period of consultation, comments will be reviewed and amendments considered before seeking ratification of the Order.

8.0 Conclusion

8.1 The Executive is to consider the options outlined in this report and decide whether or not to authorise the implementation of a consultation process in respect of a proposed gated PSPO to the rear of Murray Road, Workington. Consideration should be given to all of the issues raised, and to the attached supporting documentation in making that decision.

9. Background Papers

Anti-social Behaviour, Crime and Policing Act 2014

Home Office Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers, statutory guidance for frontline professionals

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