

## **Report to Cabinet**

**Subject:** Public Spaces Protection Order (PSPO) – Car Cruisers

**Date:** 11<sup>th</sup> January 2018

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### **Wards Affected**

Netherfield, Colwick and Trent Valley.

### **Purpose**

To obtain member approval for a Public Space Protection Order (PSPO) as shown at Appendix 1 lasting for 3 years, to prevent car cruising in the Netherfield and Colwick areas as shown on the map at Appendix 2 to come into effect on 17<sup>th</sup> January 2018.

To obtain Member approval to fix the financial level of Fixed Penalties issued by the Council for failing to comply with Public Space Protection Orders at £100, payable within 14 days of service of the fixed penalty notice, with no option for reduced rate for early repayment.

### **Key Decision**

Not a key decision

### **Background**

- 1.1 The affected wards have suffered significant nuisance from vehicles and people engaged in car cruising activities within the last 10 years, predominantly on the Victoria Retail Park in Netherfield and the surrounding area. The activities included drag racing on the highway, drifting around the roundabouts and doing “donuts” on retail premises’ car parks. This was accompanied by the playing of loud music from the vehicles as they gathered to watch the activities as well as the depositing of large amounts of takeaway rubbish. The attendance and activities described resulted in large numbers of complaints from business premises trying to go about their trade, from residents affected by the noise of car exhausts, tyres screeching and loud music. There were also safety issues as people were very close to speeding vehicles being driven in a dangerous manner.
- 1.2 A variety of tactics were used by the Police, Gedling Borough Council and Nottinghamshire County Council to try and stop the nuisance. A lot of this was staff intensive, but also included the introduction of speed humps on Pintail Close by the County Council.
- 1.3 In March 2012 Nottinghamshire County Council (as the Highway authority) obtained an injunction for three years, to prevent the car cruising activities in the locations shown in Appendix 2 and other problem areas throughout Nottinghamshire. This was successful in addressing the problem locally but led to a displacement to other locations in the County, Junction 27 and Chilwell Retail Park suffering the greatest. At

the expiration of that injunction a further one was obtained on 16<sup>th</sup> January 2015. This also covered the locations shown in Appendix 2 and will expire on 16<sup>th</sup> January 2018.

- 1.4 Since the granting of the 2015 injunction Anti-social behaviour legislation has changed with the introduction of the Anti-social Behaviour, Crime and Policing Act 2014. Section 59 of this Act allows a Local Authority to make a Public Space Protection Orders (PSPO) to address anti-social behaviour in a public place. A PSPO can be made by a local authority if they are satisfied on reasonable grounds that the anti-social behaviour is having or is likely to have a detrimental effect on the quality of life of those in the locality. Whilst the injunctions previously obtained have been effective in preventing anti-social behaviour in the areas shown in Appendix 2, without an injunction in place there is likely to be anti-social behaviour returning to the area as the restriction on car cruising will be lifted. It has already been demonstrated that where there are areas with no protection measures in place, the car cruising will be displaced to that area. Given the historical pattern of these meets it is felt that without some form of protection car cruising and the associated problems will move back to the Netherfield, Colwick area. Historically, these car meets took place in the areas shown on Appendix 2 on a weekly basis and as such the behaviour was persistent, and given the impact it had on the quality of life of those in the locality, it is felt that without a PSPO the behaviour will start again and will have a significant impact on local residents and businesses.
- 1.5 A PSPO imposes conditions on the use of an area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces safe from anti-social behaviour. A PSPO can be applied on any land which members of the public have access to and includes car parks, shopping centres and parks. The PSPO can last for a maximum of 3 years but can be shorter. The council can extend the order by a further 3 years if necessary but consultation will have to take place. The conditions on a PSPO must be justified to address the anti-social behaviour concerned. A draft PSPO including proposed conditions is shown at Appendix 1 to this report. The conditions included are necessary to prevent anti-social behaviour caused by car-cruising and associated activities.
- 1.6 Broxtowe Borough Council suffered an increase in car cruising activity in the Eastwood area in 2016, which resulted in the introduction of a PSPO to address the problem. Other authorities affected by car cruising and the resulting anti-social behaviour, have been in discussion about how to manage the problem on the expiration of the current injunction. The use of PSPOs is considered to be the best way of preventing future problems locally and has been adopted as best practice amongst surrounding authorities, with the other local authorities covered by the injunction looking to introduce a PSPO to combat these issues.
- 1.7 Before a PSPO can be granted a process of consultation has to be carried out. This includes consulting with the local community, residents and businesses, local Councillors, the Chief Constable and Office of the Police and Crime Commissioner. This consultation has already been carried out by Gedling Borough Council by way of personal visits to businesses previously affected in the Pintail Close area and Mile End Road and letters to surrounding businesses. Street notices have been placed on all access roads to the area proposed to be covered by the PSPO. Consultation letters have also been sent to Colwick Parish Council, Netherfield Steering Group and the letter is available on the council's website. Copies of the consultation letter and notices

are shown at Appendix 3 and 4 to this report. There have been no negative responses to the PSPO during consultation.

- 1.8 Following consultation, the authority can make the PSPO. Any challenge to the PSPO must be made to the High Court by an interested person within 6 weeks of the PSPO being made. An interested person is someone who lives in, regularly works in or visits the area covered by the order. So only those directly affected by the restrictions have the right to challenge the order.
- 7.9 Once the PSPO is approved it will come into effect on the expiry of the current injunction and must be advertised on the Councils website and in prominent places within the area shown at Appendix 2.
- 1.10 Once a PSPO is in place, it is an offence to breach the terms of the PSPO without reasonable excuse. Failure to comply can be dealt with by either issuing a Fixed Penalty Notice (FPN) or by prosecution in the Magistrates Court. Depending on the behaviour, an enforcement officer (police officer, police community support officer, council officer or a designated person) can decide if a FPN is suitable. As part of a report to Cabinet covering the introduction of the Anti-Social Behaviour, Crime and Policing Act 2014, delegation was given to Corporate Director authorising the issuing of fixed penalties for breaching PSPOs this has been further delegated to Senior Neighbourhood Warden.

## **Proposal**

- 2.1 It is proposed that Members make the Public Space Protection Order as shown at Appendix 1 covering the areas shown at Appendix 2, for a period of 3 years beginning on 17<sup>th</sup> January 2018 in order to stop anti-social behaviour caused by car cruising and associated activities.
- 2.2 It is proposed that the level for fixed penalties issued for breach of a PSPO be set at £100. This is the maximum figure set out in the legislation. It is also proposed that there is no option for a reduced rate for early payments. Offenders will be given 14 days to pay the FPN. This is in line with the timings for payment of fixed penalties issued by the Council for other offences under this legislation such as breach of a Community Protection Notice. The rate of £100 is higher than the rate for fixed penalties issued for littering or dog fouling which is £50. However the £100 rate is the same set by the council for breach of a Community Protection Notices under the same anti-social behaviour legislation. It is felt that the behaviour constituting a breach of the PSPO is more complex in nature and will require more officer time to investigate than a littering or dog fouling offence. It is proposed that this fee level is the same for any future PSPOs the authority may make.

## **Alternative Options**

- 3 The alternative option is not to approve the Public Space Protection order now and to wait for the Injunction to expire. We would then have to see if there is a return of the offending behaviours and, if there is consider making the PSPO then. This could lead to the problem returning and whilst the consultation process is ongoing there may be an escalation of car cruises within the area due to other Local Authorities having Orders in place in other known hot spots. Similarly the council could make no order at

any point. This could lead to anti-social behaviour in the area which is unaddressed by the council.

Members could approve a shorter term for the Public Space Protection Order but this could create more work for the public protection team as they would have to begin consultation sooner if the Order is to be extended. A shorter term would also be out of line with the 2015 injunction which was for a term of 3 years.

Members could also approve a fixed penalty level lower than £100 for failing to comply with the Public Space Protection Order but this would not reflect the gravity of the offence or the investigative time required in such matters. Members could decide on a reduced rate if payment is made within a specified period but this would not be in line with the council's current processes and procedures for the payment of FPN's for other offences under this legislation.

## **Financial Implications**

- 4.1 There will be minimal financial implications for implementation of the PSPO as costs for consultation can be met through current budgets. Further costs for signage (necessary in the locality covered) can be met through Community Safety funding. Officers will adopt the enforcement powers into their day to day working practices. There may be additional legal costs if there are a significant number of prosecutions for breaches of the order. It is unclear at this stage what additional cost may be incurred and the impact on resources in both the public protection and legal department.

## **Appendices**

- 5. Appendix 1 – Draft Public Space Protection Order  
Appendix 2 – Map of the location covered by the PSPO  
Appendix 3 – Consultation notice

## **Background Papers**

- 6 Flow chart for the granting of a Public Spaces Protection Order.  
  
Part 2.6 relating to Public Space Protection orders of the Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers - Statutory guidance for front line professions

## **Recommendation**

- 7.1 That Cabinet make the Public Space Protection Order as shown at Appendix 1 covering the area shown at Appendix 2 for a period of three years to begin on 17<sup>th</sup> January 2018.
- 7.2 That Cabinet approve a fixed penalty level of £100 for failing to comply with a PSPO, which is payable to the council within 14 days of the fixed penalty notice being served, with no reduction for early payment of the penalty.

## **Reasons for Recommendations**

- 8.1 To prevent anti-social behaviour caused by car cruising and associated activities in the areas shown at Appendix 2 which has a detrimental effect on the quality of life of those in the locality.
- 8.2 To ensure the level of FPN is appropriate to the offending involved and to keep the time for payment of FPNs under this legislation in line with the council's current processes and procedures for the payment of FPNs.