

Report for: Cabinet
Item number: 12

Title: Anti-social Behaviour, Crime and Policing Act 2014 – Request to commence Public Space Protection Order Consultation - St Anns and Tottenham Green wards

Report authorised by : Stephen McDonnell AD Environmental Services & Community Safety



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Ward(s) affected: St Anns and Tottenham Green

**Report for Key/
Non Key Decision:** Key

1. Describe the issue under consideration

- 1.1 Since 2004, the Council, Police and other agencies have targeted resources, and used a variety of legislative measures, in an attempt to disperse and discourage groups of men from gathering and seeking illegal and unregulated work outside Wickes Store, Seven Sisters Road, N15. The gathering of these individuals has resulted in anti-social behaviour being perpetrated in the area, and in local streets and parks. The type of anti-social behaviour ranges from empty beer cans and rubbish being left in residents front gardens, to using the local area to take drugs, and to urinate and defecate in.
- 1.2 Cabinet is being asked to approve for consultation a Public Space Protection Order to tackle this anti-social behaviour.

2. Cabinet Member Introduction

- 2.1 The issue of men gathering outside Wickes on Seven Sisters Road has been a problem for quite a few years. As Cabinet Member for Communities I have received many complaints from residents about how intimidated they feel as they go about their business, as well as the antisocial behaviour associated with this issue. I am therefore fully supportive of the proposals contained in this report to control antisocial behaviour which has blighted residents for such a long time.

3. Recommendations

- 3.1 That Cabinet, approves for consultation the draft Public Spaces Protection Order (PSPO) as contained in Appendix 2. The consultation will commence in accordance with section 72 of the Antisocial Behaviour, Crime and Policing Act 2014, with consultation to run, for a period of eight weeks.

4. Reasons for decision

- 4.1 As detailed further in this report, the Council and its partners have undertaken various measures and activities to tackle the Anti Social Behaviour (ASB) issues that blight residents' lives. These issues are all associated with the men who gather at Wickes. Due to the limited success of various measures and activities undertaken, it is considered by officers, that an effective deterrent will be the use of the new tools and powers available under the Antisocial Behaviour, Crime and Policing Act 2014.
- 4.2 The legislation allows for the use of penalties such as Fixed Penalty Notices (FPNs) and prosecution. It is proposed that, in order to support the legislation, targeted and sustained enforcement will be used from partners including: Haringey police, Police Partnership Team officers, immigration, British Transport police, Tactical Enforcement, Neighbourhood Action Team officers and ASBAT. It must be noted that there will be a financial cost should the authority wish to gate off an area blighted by ASB, and should the authority prosecute any of the perpetrators.

5. Alternative options considered

- 5.1 Not to pursue any PSPO. Given community feedback over many years, and the ASB being caused, this option is not considered appropriate.

6 Background

- 6.1 Since 2004, the Council, Police and other agencies have unsuccessfully targeted resources and used a variety of legislative measures in an attempt to disperse and discourage groups of men gathering and seeking illegal and unregulated work, which in turn, has resulted in anti-social behaviour being perpetrated in the area. A summary of activity is set out in appendix 1.

7 Public Spaces Protection Orders (PSPOs)

- 7.1 A PSPO is a new provision, created by the 2014 Anti-Social behaviour, Crime and Policing Act, which is intended to deal with a particular nuisance or problem in a defined area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which will apply to everyone.
- 7.2 The aim of this power is to stop individuals or groups committing anti-social behaviour in public spaces. 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, is persistent or continuing in nature and is unreasonable. These can be blanket restrictions or requirements or can be targeted against

named behaviours by certain groups at particular times. The guidance is not specific about what can be included in a PSPO.

- 7.3 The potential use of a PSPO appears to be very broad and flexible to allow a Council to cover individual circumstances in its area. A PSPO can cover multiple restrictions so one order could prohibit such activities as the drinking of alcohol and keeping dogs on a lead. The PSPO can cover any publicly accessible space with the Council's area, including an area in private ownership to which the public have access.
- 7.4 Enforcement will be shared between the Council and the police. Breach of a requirement to desist in a particular activity is a criminal offence which can result in an FPN or a fine of up to £1,000 on conviction. Enforcement can be undertaken by Council officers, and other groups the Council may designate, but principally police officers and PCSOs. The police will additionally have the power of detention.
- 7.5 A PSPO will in time replace existing provision such as designated Public Place Orders (DPPOs), which give powers to stop the drinking of alcohol in public spaces, and Dog Control Orders. Under the new 2014 Act these will continue to be valid for a period of three years from the commencement of the new provision; so until about October 2017.
- 7.6 This is likely to be the Council's first PSPO and would provide good experience of operating a PSPO in good time before all the Council's existing DPPOs and its Borough-wide Dog Control Orders expire in 2017, there are no such orders in the area proposed for the PSPO.
- 7.7 By effectively using the new tools and powers available under the Anti-social Behaviour, Crime and Policing Act 2014 alongside enforcement from partners, it is envisaged that a long term enforcement approach, combined with a national communications plan, will tackle the attraction for migrant workers to Wickes and the surrounding area. Partners include Haringey police, Police Partnership officers, immigration, British Transport police, Tactical Enforcement, Neighbourhood Action Team officers and ASBAT, through the use of penalties such as FPN and prosecution,

8 Proposed coverage of the PSPO

- 8.1 It is proposed to consult on the introduction of a PSPO which will cover a number of activities including (See attached);
- Congregating in a group of two or more persons in such a manner as to cause obstruction or give reasonable grounds for annoyance to any person in the street or public place or the car park of Wickes Store.
 - Persistently loitering in a street or public place or the car park of Wickes Store, for the purposes of offering services e.g. as a prostitute, casual labour.

- For a person in the street, public place or Wickes Car park, including a person in a motor vehicle to solicit another for the purpose of obtaining casual labour.
- Urinating, defecating or exposing genitals in a public place or in an area belonging to a private resident, business or the council (excluding a toilet designated for use by members of the public).
- Consuming alcohol or having an open container of alcohol in your possession in the street or public place or the Wickes Car Park.
- Gating an area that is blighted with drug taking resulting in defecation of alleyways.

8.2 The land in relation to which this Order applies is that land in the area of the London Borough of Haringey, namely which

- a. Is delineated and shown in red on Map 1 forming part of the Order: and
- b. Includes the roads: Kerswell Close, Victoria Crescent, Culvert Road, Russell Road, Elizabeth Road, Southey Road, Greenfield Road, Birstall Road, Brunswick Road, Brunswick Road Park, Suffield Road, Westerfield Road, Parts of Seven Sisters Road, Wickes Store and Wickes Store Car Park.

8.3 A breach the prohibition can result in a maximum penalty not exceeding level 3 on the standard scale (currently £1000).

8.4 In addition the proposed PSPO will restrict the use of the public footpath between Roslyn Road and Southey Road as shown in 'blue' on Map 2 forming part of the Order by erecting gating. Residents will subsequently be required to seek an alternative route along Greenfield Road, Elizabeth Road and Braemar Road (as identified by dashed blue line on Map 2)

8.5 This final order once approved by cabinet is likely to come into force on 1st July 2016 and shall remain in place until 30th June 2017

8.6 At any point before the expiry of this 12 month period the Council can extend the order by up to three years if they are satisfied on reasonable grounds that this is necessary to prevent the activities identified in the order from occurring or recurring or to prevent an increase in the frequency or seriousness of those activities after that time.

8.7 Any challenge to this Order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are in the locality are directly affected by the restrictions and have the power to challenge. The right to challenge also exists where an Order is varied by the Council.

9 Consultation process

9.1 ASBAT will carry out extensive consultation, namely:

- Consultation for a period of eight weeks
- An online consultation survey will be made available
- ASBAT will design a partnership letter/leaflet again outlining the reasons for the PSPO and its proposed prohibitions.
- The letter/leaflet will direct residents/workers/shoppers to the online survey and the ASBAT mailbox
- We will distribute the letters through door- knocking in the affected locality and a hard copy of the survey will be included
- ASBAT will supply the letter/leaflet to local businesses for their information and to display for customers
- Wickes have agreed to give out the letters/ leaflet to their customers as well as display the same in store
- ASBAT will make contact with local schools and other services in the locality that can be asked to display and distribute the leaflet. ASBAT will attend relevant ward panel and resident meetings to inform participants of the proposed PSPO and to disseminate the leaflet and survey.

10 Contribution to strategic outcomes

10.1 Corporate Plan 2015/18

Our vision for all residents and businesses in Haringey is summarised in Priority 3 of the Corporate Plan: ***A clean, well maintained and safe borough where people are proud to live and work.*** Underpinning this overarching priority are two specific objectives to address crime and ASB:

- Objective 1 – ***Strengthening Communities and partnerships to improve our environment and reduce crime, enabling residents and traders to feel safe and proud of where they live.***
- Objective 5 – ***To work with partners to prevent and reduce more serious crime, in particular youth crime and gang activity.***

Create homes and communities where people choose to live and are able to thrive is a key driver for Priority 5. Sustainable housing growth in mixed and inclusive neighbourhoods where residents can lead happy and fulfilling lives is key, as is improving the quality of all homes in Haringey, with a particular focus on the private rented sector.

The PSPO is intended to deal with a particular nuisance or problem in a defined area, which is detrimental to the local community's quality of life, by imposing conditions on the use of that area which will apply to everyone, contributing to objective one and five.

10.2 Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

- 10.3 The costs of undertaking the consultation exercise recommended in this report can be contained within existing budgets. If the consultation subsequently leads to a PSPO being implemented then the costs of doing so will also be funded from existing budget provisions, any income arising would be used to support enforcement activity.

11 Legal

- 11.1 A PSPO may be made if the Council is satisfied on reasonable grounds that;

Activities carried on in a public place within the Borough either have had or it is likely that they will have, a detrimental effect on the quality of life of those in the locality;

It is likely that the detrimental effect will be persistent, and such as to make the activities unreasonable;

The effect or likely effect is such as to justify the restrictions imposed by the proposed PSPO.

- 11.2 Before making a PSPO the council must publicise its draft text and consult with the local police (formally with the chief officer of police and MOPAC), with such local community groups as the council sees fit, and with the owners of any land covered by the PSPO.

- 11.3 Section 72 (1) of the 2014 Act requires that in deciding whether to make a PSPO and, if so, what it should include, the Council must have particular regard to the rights of freedom of expression and freedom of assembly and association set out in articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"). Whilst acknowledging that the proposed Order potentially entails an infringement of individuals' human rights, including the right to respect for private life and potentially the right to freedom of assembly and association, it is considered that these qualified rights may in this instance be legitimately interfered with in the interests of public safety, the prevention of crime and disorder and in accordance with the law.

- 11.4 Regarding consultation, this has to be at a time when proposals are still at a formative stage. Second, the proposer has to give sufficient reasons for any proposal to permit an intelligent consideration and response. Third, adequate time has to be given for consideration and response, and finally, the product of consultation had to be conscientiously taken into account in finalising any statutory proposal or reaching a decision. The process of consultation has to be effective and looked at as a whole it has to be fair. The Council is obliged to take account of any representations made during the consultation period and all objections received must be properly considered by the decision maker in the light of administrative law principles, Human Rights law and the relevant statutory powers.

- 11.5 Once it has been made the council must also publish the PSPO in accordance with regulations published by the Secretary of State.
- 11.6 PSPOs will impose Restrictions and requirements that are set by the local authority. These can be blanket restrictions or requirements or can be targeted at against certain behaviours by certain groups at certain times.
- 11.7 PSPOs can be enforced by a police officer, police community support officer, and council officers, and a breach of a PSPO is a criminal offence that can be dealt with through the issuing of a fixed penalty notice or a fine.
- 11.8 As this PSPO will affect two or more wards it will be a key decision and following consultation it will need Cabinet approval.
- 11.9 The implementation of the PSPO can be challenged by any interested person within 6 weeks of the making of the Order, the challenge is made at the High Court. Anyone who is directly affected by the making of the PSPO can challenge the order. A challenge can be made on the basis that the Council does not have the power to make the order, or that the particular prohibitions or requirements are unnecessary or that procedurally the order is defective.

12. Equality

- 12.1 The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to; tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation); advance equality of opportunity between people who share those protected characteristics and people who do not; and foster good relations between people who share those characteristics and people who do not.
- 12.2 The government guidance on PSPO states that the restrictions of a PSPO can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times. It should be noted that this particular PSPO is likely to have a more significant impact upon the activities of the Eastern European men regularly loitering around the Wickes Store waiting for or having been unsuccessful in securing any paid labour. These are the individuals largely identified as but not solely responsible for the anti-social behaviour that is detrimental to the local community's quality of life – with instances of men urinating or defecating into people's gardens, litter from consumed cans and bottles of alcohol, intimidation felt by the large numbers blocking the public highway, the noise nuisance through the men gathering together and drinking
- 12.3 No particular group should be disadvantaged through the consultation, publicity and enforcement of the PSPO. The law requires that we ensure that we improve the Borough's understanding of the community and cultivate better understanding between communities thereby "fostering good relations" as

required by law at 1 (c) above. Targeting specific groups may cause friction so careful consideration will be given when carrying out consultation in both the wording of the consultation document/survey and the PSPO, so that no one group is targeted by the Order. We will also ensure that when carrying out consultation we give due regard to those who might not otherwise get involved helping them understand how they can get involved so their voices are heard, for example where there are known language barriers documentation will be translated into other relevant languages and face-to-face consultation will involve interpreters and officers with other relevant languages. We will undertake letterdrops and door knocking exercises to all affected residents and business in the locality. We have agreed with the police and will involve other services (e.g. StreetLink) in carrying out pre-consultation operations targeting, in particular the Eastern European men congregating outside Wickes and immediate areas, to ensure they are aware of the consultation process and have an opportunity to make their views known. A similar operation will be delivered explaining the PSPO should the order be sanctioned.

12.4 The introduction of a PSPO in the locality of Wickes Store, Seven Sisters Road N15 has the potential to have a positive impact on the Council's duty under the Equality Act 2010 to foster good relations between communities. It will tackle antisocial behaviour which has the potential to create tensions between different communities.

12.5 The PSPO will apply to all individuals committing antisocial behaviour within the designated area, without discrimination. The Consultation process will seek to gather the views of all local communities and ensure that the characteristics of respondents are recorded. Equalities analysis of the consultation response and results, and an outline of any proposed mitigating actions, will then be recorded in an Equalities Impact Assessment which will be carried out once the consultation is complete.

13. Use of Appendices

13.1 Appendix 1 – A summary of activities carried out in the area

13.2 Appendix 2 - Draft Public Spaces Protection Order Consultation & area map

14 Local Government (Access to Information) Act 1985

14.1 ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

Appendix 1

Previous use of legislation and partnership operations

- **Dispersal Orders** - This allows police officers to ask groups (of two or more) who may be engaging in ASB to leave the area, and should they return within 24 hours they can be arrested. Dispersal Orders have run from July 2007 and have been extended on five occasions to July 2010. A further Dispersal Order was implemented in May 2014 to November 2014. This initiative had limited success as it became apparent that as soon as the Police left the area, the men immediately returned.
- **High Court Injunction** – In 2013 an application was made to the High Court for a blanket injunction restricting men gathering and causing ASB in the area. The High Court, however, indicated that it would not be minded to grant the injunction, as it was considered 'too far reaching and disproportionate'. As a result, the Council's application was withdrawn in July 2013.
- **Anti-Social Behaviour Orders (ASBOs)** - In July 2012, the Council and the Police initiated a month long operation to identify some of the men gathering. 11 ASBOs excluding those subject to the proceedings from the area. However, although those subject to the ASBO did not return, they were replaced by other individuals not subject to the ASBO.
- **Partnership Operations**
 - **Operation Tailgate** – In an attempt to remove the attraction to the area, police and Council officers targeted those employing men to undertake work. Vehicles were stopped and checked for tax and insurance documents and whether they were unlawfully carrying waste. Vehicles unable to provide the relevant documents were towed away and crushed. Those vehicles unlawfully carrying waste were issued FPNs but this did not deter the men from congregating.
 - **Department of Work and Pensions** - In an attempt to prosecute those who were approaching men for unregulated work, police and Council officers worked alongside the Department of Work and Pensions (DWP). However, for the DWP to instigate legal proceedings, they are required to witness employment actually taking place, due to the distances being travelled to various places of work, this soon became unsustainable due to the resources involved.
 - **Outreach work** – In an attempt to educate the men gathering, interpreters and translated literature was used to encourage them to seek legitimate work, or to claim appropriate benefits. This also had limited impact as the men continued to gather.

- **Operation Ajutor** – Between April 2014 and October 2014, the police dedicated two full time Police Constables to monitor the Wickes area. Concurrent to this, police colleagues also put in place a ‘Dispersal Order’ in conjunction with LBH. Once this was in place, the police (Neighbourhood Policing Teams) started to enforce the dispersal zone. In the first two months of the operation, numbers reduced from a peak of approximately 40 to 12-15 each morning, however a core of workers who appeared to live in the area remained. After the operation had finished the numbers returned.
- **ASB associated with footpaths**
 - In 2012 a public footpath running between Roslyn Road and Southey Road N15 was found to be particularly affected by anti-social behaviour; discarded beer cans, drugs paraphernalia, urine and faeces. The footpath is around the corner from Wickes and residents and services are of the view that the men loitering outside Wickes may be major contributors to the ASB occurring along the footpath. The men outside Wickes are often seen drinking for most of the day, they have subsequently been witnessed urinating and defecating in the locality. This ASB has attracted drug taking and dealing.
 - To tackle this issue, the Council considered the use of a Gating Order (and undertook a consultation in respect of this in February 2014). However the introduction of the Anti-Social Behaviour, Crime and Policing Act 2014 gating orders were replaced by PSPOs. This footpath does provide a route to residents, however, there alternative suitable routes in close proximity. Its closure would also bring long awaited relief to the immediate residents unable to use their gardens.