

PUBLIC SPACES PROTECTION ORDER (PSPO) – CONSULTATION UPDATE

Wards Affected: Abbey

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RECOMMENDATION TO CABINET MEMBER

1. To agree to make a Public Spaces Protection Order (PSPO) to restrict public access to footpath HWU/80/1 by way of lockable gates at each end.

Reason for Decision

2. Following reports of anti-social behaviour and crime, a public consultation was undertaken in relation to implementing a PSPO to close footpath HWU/80/1. This report details the results of this consultation and asks that the HWTC recommends to the Cabinet Member for Community the making of this PSPO.

Corporate and Legal Implications

- This report recommends legal action be taken by the Authority in accordance with the new legislation. The legal parameters laid out within the Act will be considered carefully against the proposal for an Order. Section 59 of the Anti-social Behaviour Crime and Policing Act 2014 allows a local authority to make a public spaces protection order where it is satisfied on reasonable grounds that two conditions are met. The first is that 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 it is likely that activities will be carried on in a public place in the area and that they will have such an effect. The second condition is that the effect, or likely effect of the activities is, or is likely to be of a persistent or continuing nature, that it is, or is likely to be such as to make the activities unreasonable, and it justifies the restrictions imposed. A PSPO can prohibit specified things being done in the restricted area, require specified things to be done by persons carrying on specified activities in the area, or both of those things. Prohibitions or requirements must be reasonable in order to prevent or reduce the detrimental effect from continuing, occurring or recurring.
- Section 64 provides that a local authority may not make a PSPO that restricts public right of way over a highway without considering the likely effect of making the order on occupiers of premises adjoining or adjacent to the highway, other persons in the locality, and in a case where the highway constitutes a through route, the availability of a reasonably convenient alternative route. Notification to persons potentially affected of the proposed order is necessary, along with details of how they can see the proposed order, and the period within which they may make representations, and for consideration of them. The report outlines steps taken to comply with this requirement. Where a PSPO restricting public rights of way is made, it may authorise the installation and maintenance of a barrier or barriers for enforcing the restriction. It does not cease to be regarded as a

highway because of such a barrier.

- The introduction of any Order presents a risk of legal challenge to the Council. Section 66 of the Anti-social Behaviour Crime and Policing Act 2014 states that “interested persons” may challenge the validity of any Order in the High Court. An application of this nature must be made within six weeks, beginning on the day the Order is made or varied. There are two grounds upon which a challenge could be made:
 - That the local authority did not have the power to make the Order, or variation, or to include particular prohibitions or requirements imposed by the Order (or by the Order as varied)
 - That a requirement under this element of the legislation was not complied with in relation to the order or variation
- The High Court would have the power to quash, amend or uphold the Order.
- Other legal implications and requirements are set out within the report.

Finance

- There will be the cost of purchasing and installing the gates, as well as undertaking any maintenance and repairs throughout the duration of the PSPO. A quote has been obtained and the cost will be approximately £3,500

Executive Summary

3. In May 2017 High Wycombe Town Committee supported the launch of a consultation on a proposed PSPO to restrict public access to footpath HWU/80/1.
4. Letters detailing the proposed restriction were hand delivered to the residents and businesses whose properties back onto the footpath. In addition, letters were also delivered to the surrounding properties and businesses, asking for any comments to be sent in. Consultation letters were also sent to the Police and Crime Commissioner, the Chief Officer of Police for the local area and Buckinghamshire County Council’s Rights of Way Team and Strategic Access Officer (so that the consultation could be shared with relevant access groups).
5. Letters and emails of support were received from those who are being affected by anti-social behaviour in the area, along with some objections, detailed later in this report.

Sustainable Community Strategy/Council Priorities - Implications

6. The Implementation of a PSPO to address anti-social behaviour will contribute towards the Council’s priority ‘People’ in terms of working and engaging with local communities to reduce and deal effectively with anti-social behaviour. It will also contribute to the ‘Place’ priority by making the District a place where people want to live, work and visit by controlling and preventing crime and anti-social behaviour.

Background and Issues

7. The Anti-Social Behaviour, Crime and Policing Act 2014 introduced the concept of the Public Spaces Protection Order which, amongst other things, can be used to restrict access to a public right of way. There have been numerous reports to the police, the Anti-Social Behaviour Officer and Ward Councillors of anti-social behaviour taking place along footpath HWU/80/1, which runs behind the houses on West End Road. Whilst a number of approaches have been tried to tackle the issue, it is considered that taking into account all of the relevant information, there is such an ongoing problem that restricting the public right of way as outlined in this report is the only option likely to address this behaviour and that this takes account of the objections and is a reasonable course of action.

Consultation findings

8. Consultation letters were sent to the following:
 - The residents and businesses whose premises back onto the footpath
 - Residents and businesses in the wider local area
 - Police and Crime Commissioner
 - High Wycombe Local Police Area Superintendent
 - Bucks County Council Rights of Way Team and Strategic Access Officer
 - Via Bucks County Council, letters were sent to Chiltern Society, the Open Spaces Society and the Ramblers Association.
 - Following a recommendation from the Open Spaces Society, further letters were sent to the Auto-Cycle Union, the British Horse Society, and the Byways and Bridleways Trust (as specified within the Public Path Orders Regulations 1993 (schedule 3)).
9. During the consultation period letters/emails of support were received from 8 local residents and 1 local business. The anti-social behaviour problems that have been occurring along this footpath continue to cause a great deal of distress to those residents who responded. Points that have been raised by the residents include:
 - Ongoing use of the footpath by people drinking alcohol
 - Noise at all times of the day and night
 - Fear for personal safety due to drug taking, racist graffiti, fire setting and damage to rear garden fences again
 - Fly tipping
 - Windows being smashed and items being thrown into rear gardens

An email of support for closing the footpath was also received from the Police and Crime Commissioner.

10. Letter/emails of objection to closing the footpath were received from the following:
 - **Ramblers Buckinghamshire, Milton Keynes and West Middlesex Area** – which felt the footpath was used regularly by members of the public and that by closing the footpath the anti-social behaviour problems would be moved onto other sections of the footpath. They felt that CCTV should be considered. They raised concern over using lockable gates as they felt it was likely the keys would ‘get into the wrong hands’, and that closing the footpath

would have an adverse effect on the people that use it as it provides a short cut away from traffic.

- **Open Spaces Society** – which explained that the footpath proposed to be closed was part of a continuous route from Rutland Street to Leigh Street and connecting to Kitchener Road. They believed the footpath was regularly used by the public, and that it provides a short cut away from traffic. Concern was also raised regarding the alternative route, which although a short distance from the footpath, was next to traffic and was ‘partly obstructed by rubbish bins’.
- **Buckinghamshire Local Access Forum** – the proposed PSPO was discussed at a meeting in July where eleven out of the fourteen members present were in opposition to the closure of the footpath. They felt the closure would penalise the majority of legitimate users, and that the alternative route is not the most convenient or direct route, and is not away from traffic noise and fumes. They also felt the PSPO would set a precedent for similar footpaths within the town that provide ‘valuable pedestrian connectivity’. The forum members raised concerns over the lockable gate and the potential for displacement of the anti-social behaviour.
- **Chiltern Society** – which felt the closure of the footpath would be inconvenient and unacceptable to legitimate users. They also felt that closing the footpath would simply displace those causing the nuisance.
- **A resident in Marlow** – who explained that the footpath is an essential part of High Wycombe’s historic layout and felt that it would be more appropriate to use surveillance and applying the ‘full force of the law’ to stop the behaviour continuing.
- **A resident of Desborough Road** – whose family use the footpath to visit Wycombe Hospital regularly and feel the alternative is via a steeper hill.
- **Resident from unknown location** – who felt that CCTV should be used instead, and that the license to sell alcohol be taken from the shop owner whose shop is located at one end of the footpath.

Response to concerns raised

- The alternative route is only a very short distance from the footpath, so people will not have to walk much further (as illustrated on the map in Appendix A). It is not a main road, and there are no more obstacles along this footpath compared to other pavements in the area.
- There is a possibility that closing this footpath will cause the people causing the problems to move to another footpath (as there are many nearby). However I believe this footpath is particularly convenient as the shop that sells alcohol is at one end.
- There is a concern that closing this footpath will set a precedent, however action does need to be taken to tackle the anti-social behaviour, and the other options available are limited.

Other options

11. The footpath is within an existing PSPO area where alcohol related anti-social behaviour is prohibited. Breach of the existing PSPO is an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale. 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, PCSO, council officer or other person designated by the Council. However, the police have agreed that the alleyway would be included on the police patrol plan during the spring/summer months when anti-social behaviour tends to increase and that the alcohol related PSPO will be enforced as and when police officers encounter breaches.

12. CCTV could be explored for the area, but it would cost significantly more. A pole mounted fixed camera could be mounted at each end. As the location is outside and there is no adjacent WDC owned building or service images would need to be transmitted back to the CCTV Control Room. The estimated cost of such an installation would be in excess of £35,000. There would also be significant collateral intrusion as this is a public right of way. It may prove difficult to identify perpetrators from the images unless they are known to the police, and there would be a resourcing impact on WDC in relation to viewing the footage. Additional night-time lighting may be required, which may be unwelcome to adjacent housing.

Implementation

13. An estimate of approximately £3,500 has been obtained for the gates; a firm quotation will be needed.
14. The footpath would need to be monitored to ensure it does not become overgrown, or that the gates are not damaged. Any damage costs would need to be met by Wycombe District Council.

Enforcement

15. No enforcement activity would be required if the footpath were closed.

Risk Implications

16. If the required process to introduce a PSPO is not followed, this could lead to a challenge which would mean that the authority could face legal costs and reputational damage.
17. There is a risk that by closing this footpath, the anti-social behaviour will move to another footpath. This area of Desborough has other footpaths in close proximity. This would be monitored.

Next Steps

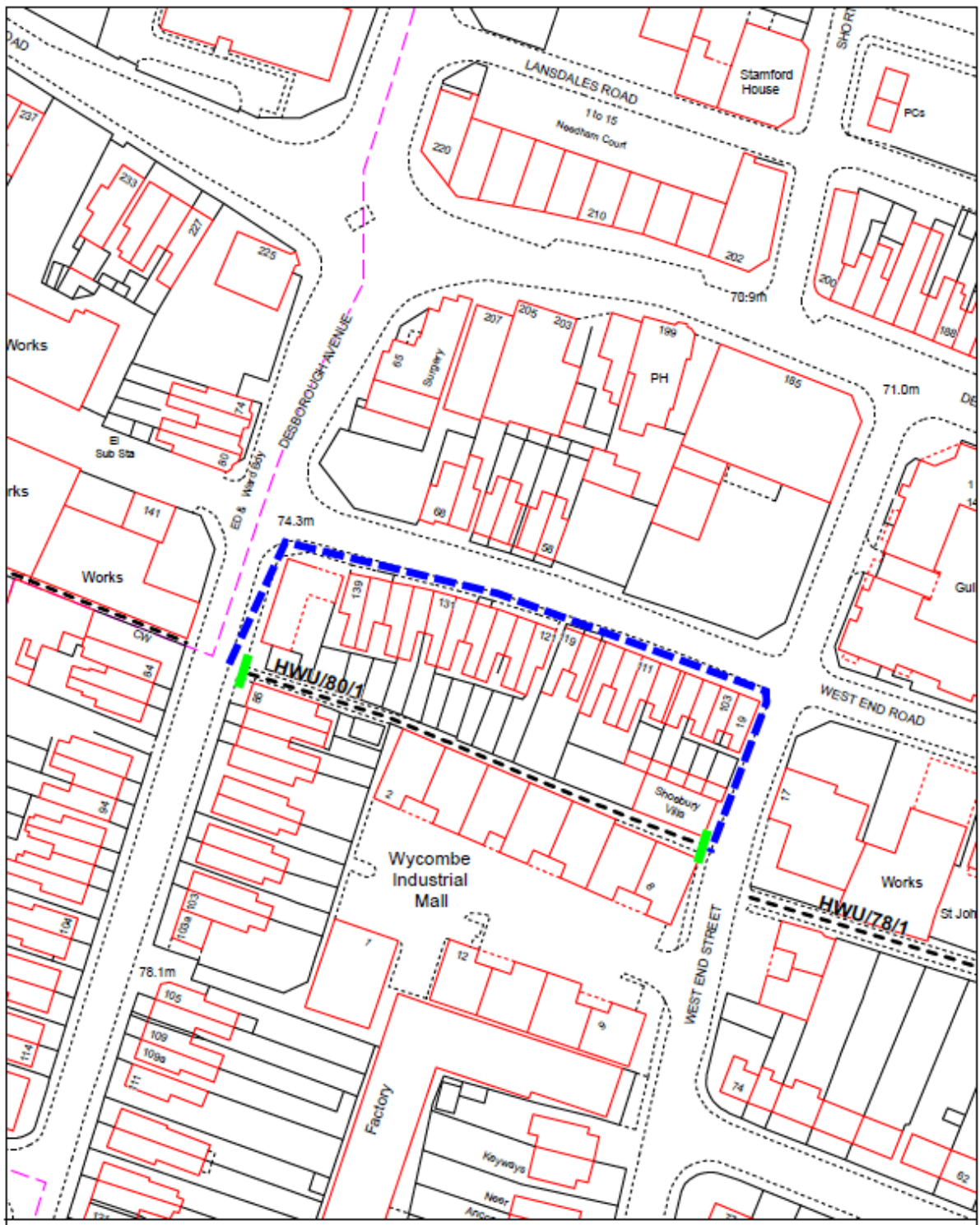
18. If the Committee supports the recommendation to close the footpath, the Cabinet Member for Community would be asked to make the decision to implement a PSPO.
19. If the Committee does not support the recommendation to close the footpath, the local residents will be informed, and officers will continue to work with the police to address incidents of crime and anti-social behaviour.

Background papers

Anti-Social Behaviour, Crime and Policing Act 2014

Statutory guidance

Appendix A



Key:

Black dotted line – Footpath HWU/80/1

Blue dotted line – Alternative route

Green line – where the proposed gates will be located.