

<b>SUBJECT:</b>	<b>PROPOSALS FOR THE EXTENSION OF EXISTING PUBLIC SPACE PROTECTION ORDER AT LUCY TOWER, BROADGATE AND LINCOLN CENTRAL MULTI-STOREY CARPARKS</b>
<b>DIRECTORATE:</b>	<b>COMMUNITIES AND ENVIRONMENT</b>
<b>LEAD OFFICER:</b>	<b>BEN JACKSON, PUBLIC PROTECTION, ANTI-SOCIAL BEHAVIOUR AND LICENSING SERVICE MANAGER</b>

## **1. Purpose of Report**

- 1.1 To brief the Executive on the process and consideration given to date, to extend an existing Public Space Protection Order at Lucy Tower, Broadgate and Lincoln Central Multi-storey Carparks.
- 1.2 To seek the views of the Executive on proposals regarding the extension of the existing Public Space Protection Order (PSPO).

## **2. Executive Summary**

- 2.1 In October 2014, the Secretary of State enacted new powers from the Anti-Social Behaviour, Crime and Policing Act, relevant to tackling Anti-Social Behaviour. These powers also make changes to some of the relevant existing legislation and the Council is required, within the period of three years, to reconsider its Designated Public Place Orders (DPPOs) and either withdraw or replace them with new Public Space Protection Orders (PSPOs).
- 2.2 The PSPOs are more flexible and can be applied to a much broader range of issues, with local authorities having the ability to design and implement their own prohibitions or requirements where certain conditions are met. These conditions centre on the impact to the quality of life in the locality, persistence, and whether the impact makes the behaviour unreasonable.
- 2.3 In September 2020 Executive approved the implementation of a PSPO covering Lucy Tower, Broadgate and Lincoln Central Multi-Storey Carparks. The PSPO prohibited the following behaviours within the designated areas (see Appendix A):
  1. No person in the restricted area shall engage in any of the following activities:
    - a. Ingesting, inhaling, injecting, smoking or otherwise using and intoxicating substance unless for an exempted use;
    - b. Any activity likely to cause harassment, alarm or distress to any other person;
    - c. Congregating in a group of two or more persons so as to cause and obstruction or give reasonable grounds for annoyance to any person;
    - d. Loitering without a permitted purpose; or

- e. Anti-social behaviour, including but not limited to public urination or defecation, or any other unacceptable or offensive behaviour.

- 2.4 A PSPO has a maximum duration of 3 years. It is therefore advisable to review the order after 3 years to determine whether it should be subject to extension or variation. As part of the review, we have sought the views of both the public and relevant partner agencies by way of a public and partner consultation, this consultation has also been published on social media for greater reach. This consultation period opened on Monday 19th June 2023 and closed on Monday 17<sup>th</sup> July 2023.
- 2.5 We have also collated and considered data held by the City of Lincoln Council.
- 2.6 The consultation sought views on questions outlined in 5.1.
- 2.7 The City of Lincoln, much like other towns and cities nationally, has a recurring issue with Anti-Social Behaviour and Crime within Multi-Storey Carparks. Whilst the council and its partners are working collaboratively to address the complex issues of individuals with a holistic approach, there remains a clear need for deterrent and enforcement tools such as those offered by a PSPO.

### **3. Public Spaces Protection Orders**

- 3.1 The relevant parts of the Anti-Social Behaviour, Crime and Policing Act came into force on 20<sup>th</sup> October 2014. This Act contains the provisions for the Public Space Protection Order, which were enacted by order of the Secretary of State on the 20<sup>th</sup> October 2014.
- 3.2 Local authorities have the power to make Public Spaces Protection Orders if satisfied on reasonable grounds that two conditions are met.

The first condition is that:

- a) 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
- b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or likely effect, of the activities:

- a) is, or is likely to be, of a persistent or continuing nature,
- b) is, or is likely to be, such as to make the activities unreasonable, and
- c) justifies the restrictions imposed by the notice.

Activities can include things that a person or a group does, has done or should do (in order to reduce the detrimental effect).

- 3.3 A Public Space Protection Order is an order that identifies the space to which it applies ("the restricted area" within which the impact has or is likely to occur[ed]) and can make requirements, or prohibitions, or both within the area. This means that the local authority can, by virtue of the order, require people to do specific things in a particular area or not to do specific things in a particular area. The local

authority can grant the prohibitions/requirements where it believes that they are reasonable in order to prevent or reduce the detrimental impact. The order can be made so as to apply to specific people within an area, or to everybody within that area. It can also apply at all times, or within specified times and equally to all circumstances, or specific circumstances. The order can apply for a maximum of three years upon which the process of reviews and consultation must be repeated to ensure the order is having the required effect. Thereafter it can be extended for a further three years and, upon the reviews and consultation taking place, can be extended more than once for further periods of three years.

- 3.4 Failure to comply with either a prohibition, or requirement, within the order is an offence. Upon summary conviction (offences heard within the Magistrates Courts) defendants can face a fine not exceeding level three on the standard scale (currently £1000). The defendant cannot be found guilty of an offence under a prohibition/requirement where the local authority did not have the power to include it in the order. Breaches of the order can also be discharged by use of a fixed penalty notice (FPN). The fine attached to a FPN is £75 reduced to £50 if paid within two weeks.

#### **4. The Current PSPO**

- 4.1 In October 2020, the council enacted a Public Space Protection Order under the Anti-Social Behaviour Crime and Policing Act 2014.
- 4.2 In the area defined by the attached order and map shown in Appendix A, the following prohibitions apply:

*This order applies to the area (the “restricted area”) shown edged and hatched on the plan annexed to this order.*

- 1. No person in the restricted area shall engage in any of the following activities (each activity being a “prohibited activity”):*
  - a. Ingesting, inhaling, injecting, smoking or otherwise using an intoxicating substance unless for an exempted use;*
  - b. Any activity likely to cause harassment, alarm or distress to any other person;*
  - c. Congregating in a group of two or more persons so as to cause an obstruction or give reasonable grounds for annoyance to any person;*
  - d. Loitering without a permitted purpose; or*
  - e. Anti-social behaviour, including but not limited to public urination or defecation, or any other unacceptable or offensive behaviour.*
- 2. Any person reasonably suspected of engaging in a prohibited activity and given a direction to leave the restricted area by a relevant occupier shall do so as soon as reasonably possible.*
- 3. Any person within the restricted area who breaches the prohibition at 1(a) shall surrender any intoxicating substances in their possession to an authorised person.*

- 4.3 A PSPO may not last more than 3 years so should be reviewed after 3 years and may then be extended for a further period of up to 3 years (the PSPO can be extended more than once). As part of the review the PSPO may be amended to add or remove prohibitions or requirements, the geographical area may be altered or the order may be discharged.

## **5. The Consultation**

- 5.1 On Monday 19<sup>th</sup> June 2023 a public and a partnership consultation was launched. The consultation lasted 28 days and closed at 9am on Monday 17<sup>th</sup> July 2023 (See Appendix B). As part of the consultation the public and partners were approached seeking their views and any evidence, they may hold regarding the renewal of the PSPO;

1. Does your agency have any information in support of the PSPO renewal?
2. Does your agency have any concerns or objections to the PSPO renewal?
3. Do you use the Multi-Storey Car Parks, and if not why?
4. If you use the Multi-Storey Car Park, do you feel that the PSPO has had a positive impact on reducing Anti-Social Behaviour

- 5.2 We have directly approached all members of the Lincolnshire Community Safety Partnership (Safer Lincolnshire Partnership) as well as approaching the following partners;

- Lincolnshire Police
- Lincoln BIG
- P3
- Framework
- Addaction
- YMCA
- ARC
- Public Health at LCC

- 5.3 The consultation has been available on our website and in addition to this City of Lincoln Communications team have put out information of the public consultation via social media to improve our reach.

- 5.4 In responses to the consultation, we have received a total of five responses. All five of the responses came from partner agencies.

- 5.5 All five of the responses called for the existing PSPO to remain in place.

- 5.6 Given the low response rate from both the public and partners it is concluded that partners and the public are broadly happy with the PSPO in its current format.

## **6. The Geographical Area of the PSPO**

- 6.1 The PSPO covers three of the City Centre Multi-storey car parks. The three car parks are Lucy Tower, Broadgate and Lincoln Central.

## 7. Evidence

- 7.1 Feedback from partners including Lincolnshire Police, the CCTV team and from the Car Parking team is that the PSPO remains a useful tool. It is important to recognise that this PSPO is an effective deterrent, and the feedback suggests that colleagues and partners find it a very useful tool for engaging with individuals and moving individuals on. See Appendix B for the full consultation responses.

- 7.2 Lincolnshire Police respond to incidents at the Multi-Storey Carparks. The Anti-Social Behaviour Co-Ordinator Police Officer has provided the following in a statement:

*The first approach we take as a team is 'Engagement and Support' and the PSPO is a vital tool enabling us to approach individuals rough sleeping or congregating in the car parks.*

*Ultimately the PSPO protects the staff and customers in the car park and assists us in keeping Lincoln a safe place to live, work or visit. It is a useful tool for officers who I know are regularly using it but do not feedback with figures.*

- 7.3 The City Services Supervisor, who manages the team responsible for the day-to-day management of the car parks, responded to the consultation with the following:

Does your agency have any information in support of the PSPO renewal?

*The PSPO has worked wonders in reducing the number of re-occurring offenders who engage in the activities outlined in Section 1 of the order. We still get reports of evidence of the 1a activities, but it is not often a recurrence of the same individual. It helps us have legislation we can turn to and quote to individuals that may not see why they shouldn't be on our MSCP's. We often get groups of youths feeling as it's a "public car park" they have the right to be on there, so when we can point out them being on the site can be defined under the PSPO as section, 1b, 1c, and/or 1d they soon choose to move on elsewhere.*

If you use the Multi-Storey Car Park, do you feel that the PSPO has had a positive impact on reducing Anti-Social Behaviour?

*No car park will ever be 100% free of antisocial behaviour, but the PSPO has in my mind helped reduce the anti-social behaviour we were seeing before its introduction.*

- 7.4 The Operational Manager for the Councils CCTV system, responded to the consultation with the following:

If you use the Multi-Storey Car Park, do you feel that the PSPO has had a positive impact on reducing Anti-Social Behaviour?

*Broadgate had a serious issue with drug taking before the PSPO was introduced and has ongoing issues with rough sleepers. Lucy Tower had issues with rough sleepers and teenagers causing issues on the top deck. Both of these areas have improved but there are ongoing issues in Central which supports the continuation of the order.*

- 7.5 Data extracted from CCTV records show that during the three years prior to the implementation of the PSPO there were 107 reported incidents of drug related ASB in the three car parks. Since the PSPO has been in effect, there has 35 reported incidents of drug related ASB in the three car parks.

The below data shows incidents by category in the three years prior to the commencement of the PSPO and the incidents by category for the three years where the PSPO was in force.

Category	3 years prior (01/10/17 – 30/09/20)	Last three years (01/10/17 – date of report)
Public order	189	150
Drugs	107	35

- 7.6 The data shows a drop in public order incidents but still shows one hundred and fifty incidents across the three car parks during the past three years. The PSPO gives Police and Council staff the ability to move individuals away from the car parks if they are engaging in any of the prohibited activity noted on the PSPO. The fact that there have still been one hundred and fifty noted public order incident demonstrates that the PSPO is still needed as a useful tool to tackle ongoing issues at the three locations.
- 7.7 Police or Parking Services staff are often the first on the scene when dealing with potential breaches of the PSPO. We do not store data for the number of conversations that are had with individuals breaching the PSPO, where they are advised to move on or cease prohibited behaviour. The Police and Council take a staged and incremental approach to enforcing the PSPO. This means that enforcing Officers will ask individuals to cease the behaviour and if the advice is ignored, further breaches would result in a FPN being issued.

## **8. The Proposal**

- 8.1 To renew the existing Public Space Protection Order without any variations, for a further 3 years.
- 8.2 Members would need to be satisfied that the legal conditions, laid out above, have been met. Officers' view is that these requirements have been met based on:
- The data provided by CCTV.
  - Feedback from the consultation attached as APPENDIX B.
  - The statement provided by the ASB PC.

## **9. Implementation**

- 9.1 Implementation of this order, legally, would require a public notice to be published, This would be done through a formal notice in the local newspaper, notification on our website and press releases through media outlets.
- 9.2 Although not necessarily a statutory requirement, it is recommended that signage be clearly displayed in the PSPO area.

## **10. Enforcement**

10.1 In relation to enforcement of the PSPO the following officers can enforce it;

- Lincolnshire police
- Authorised Council Officers

10.2 Each breach of the PSPO will be carefully considered on a case-by-case basis. The main purpose of the PSPO is to act as a deterrent. The feedback to the consultation demonstrates that the main benefit of this PSPO is that it acts as a deterrent.

## **11. Implications**

11.1 Any legal challenge presents a risk to the Authority. The legislation supporting implementation of the extension of the Order states that “interested persons” may challenge the validity of any order in the High Courts. This means that the Council could face a challenge against its ability to implement the Order. An application of this nature must be made within six weeks, beginning on the day the Order is made or varied. There are three grounds upon which a challenge could be made, these are:

- 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 not complied with in relation to the order or variation
- The High Court would have the power to quash, amend or uphold the order.

11.2 The penalty for breaches of this order relate to fines alone, which may lead to significant levels of non-payment. The suite of powers available however would allow officers to utilise a range of measures for those identified as persistently breaching the order, for example:

- Community Protection Notices could be issued against the individuals.
- A civil injunction may be sort which contains prohibition or positive requirements. The sanctions for breaching and Injunction can include a prison sentence in extreme cases.
- A Criminal Behaviour Order could be sought. Breach of the PSPO is an offence and upon conviction, individuals could be made subject to a Criminal Behaviour Order. This carries both tougher sanctions, along with the ability to implement positive conditions requiring support for substance misuse issues.

## **12. Strategic Priorities**

### **12.1 Let's drive economic growth**

Projects within the city centre to tackle anti-social behaviour enhance our city making it a more attractive city for investment.

## 12.2 Let's reduce inequality

The service seeks to reduce inequality through its work with individuals and communities.

## 12.3 Let's enhance our remarkable place

Projects within the city centre to tackle anti-social behaviour serve to improve and enhance the city.

# 13. **Organisational Impacts**

## 13.1 Finance

Enforcement costs under this order will be met by existing Police staff. Any supplementary enforcement will form a part of the role of the Public Protection and Anti-Social Behaviour Officers. There are some internal costs for consultation and a small cost associated with the publication of the Order and stationery for FPNs along with signage. These will be met from within existing budgets.

Income from FPNs is expected to be small and will be used to cover the associated costs of implementing the proposal.

## 13.2 Equality, Diversity and Human Rights

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

## 13.3 Equality, Diversity & Human Rights (including the outcome of the Equality assessment- Appendix C)

An Equality Analysis has been undertaken and is attached. The proposal does not disproportionately affect any protected group and complies with legislation to have regard for Human Rights in developing procedures.

The Council and Police work closely with partner agencies such including drug and alcohol services and mental health teams, to support individuals that may engaging in any of the prohibited behaviour outlined on the PSPO. There is a two weekly City Centre Tasking meeting which is a multi-agency meeting that have the aim of resolving ASB and/or crime in the City Centre. Partners such as the Councils Rough Sleeping team attend to provide support to any cases involving rough sleepers.



#### 13.4 Human Resources

No current implications.

#### 13.5 Land, Property and Accommodation

All land owners within the area are required to be consulted, which has been satisfied through the consultation conducted.

#### 13.6 Significant Community Impact

This report identifies a proposal that has the potential to deliver a significant positive community impact if used to its full potential.

#### 13.7 Corporate Health and Safety implications

There are health and safety consideration regarding approaching potential perpetrators who are in breach of the PSPO however the teams involved, namely the Police and Council teams, have risk assessments in place to manage and mitigate the risk. There is also good CCTV coverage in the Multi-Storey Car Parks.

### 14. Risk Implications

#### 14.1 (i) Options Explored

1. Extend the existing PSPO.
2. Extend and vary the PSPO to reword the prohibitions and / or change the geographical area.
3. Not extend the existing PSPO

#### 14.2 (ii) Key Risks Associated with the Preferred Approach

There is a risk that expectations will be raised by this order which agencies cannot meet. The order may not resolve the issues.

### 15. Recommendation

- 15.1 To approve the proposal to extend the current PSPO without any variations to the prohibitions or location.

**Is this a key decision?**

No

**Do the exempt information categories apply?**

No

**Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?**

No

**How many appendices does the report contain?**

3

APPENDIX A – Existing PSPO Inc. Map  
APPENDIX B – Partner responses  
APPENDIX C – Equality Assessment

**List of Background Papers:**

None

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