

Report To:	CABINET	Date:	30 NOVEMBER 2017
Heading:	PUBLIC SPACES PROTECTION ORDER (PSPO) – CAR CRUISING		
Portfolio Holder:	CLLR NICOLLE NDIWENI – SAFER AND STRONGER COMMUNITIES		
Ward/s:	UNDERWOOD, ANNESLEY AND KIRKBY WOODHOUSE		
Key Decision:	YES		
Subject to Call-In:	YES		

Purpose of Report

The purpose of this report is to seek approval from Cabinet to consult on the making of a Public Spaces Protection Order (PSPO) to prohibit people from engaging in, encouraging or assisting in the carrying out of any 'car cruising' events on the public highway, and other land to which the public has access, as detailed in the draft PSPO at Appendix 1.

Recommendation(s)

Cabinet is recommended to approve:

- 1 That the Director of Place and Communities, in accordance with section 72 Anti-Social Behaviour, Crime and Policing Act 2014, carry out the necessary consultation and notification of the proposed Order in respect of car cruising.
- 2 That the results of the consultation are considered by the Director of Place and Communities and to report back to Council with a view to proceeding with and making the Order, where this is supported by the results of the consultation. If substantial and material amendments are required, an amended version will be submitted to Cabinet for reconsideration prior to seeking formal adoption at Council.

Reasons for Recommendation(s)

Car Cruising on Junction 27 of the M1 Motorway and the Hucknall bypass has been a significant problem for a number of years. In 2015 Nottinghamshire County Council presented evidence to Nottingham County Court sufficient to support the granting of an injunction.

During 2017 large numbers of drivers have gathered in breach of the injunction causing distress and nuisance to local residents. This issue is currently being managed by Nottinghamshire Police who are enforcing the current injunction which currently prohibits car cruising in roads surrounding Junction 27 of the M1 Motorway.

The current injunction expires on 16 January 2018.

Partner discussions have been undertaken including Nottinghamshire Police, Nottinghamshire County Council Community Safety Team, Nottinghamshire County Council Highways and the Council in respect of the way forward in tackling Car Cruising post January 2018.

Nottinghamshire Police have reported that enforcement of the injunction is not an effective or efficient power to address the problem.

Nottinghamshire County Council have indicated that they do not intend to apply for renewal or extension of the Injunction. Research indicates that use of a Public Specie Protection Order is an effective control measure to reduce nuisance and harm. Hence, given the ongoing problem with car cruising around Junction 27, creating a new PSPO to tackle this issue is the most practicable alternative option.

Alternative Options Considered (With Reasons Why Not Adopted)

Not to create a new PSPO in respect of car cruising.

This would require tolerating this form of driving behaviour and the associated risk to public safety and nuisance. The risk is evidenced and whilst no serious injury has occurred within the district, similar events within the UK have resulted in fatalities and serious injuries to drivers , passengers and spectators

Any reactive response without recourse to an order or injunction would create higher burden of proof on enforcement agencies to prosecute and therefore deter the offending behaviour. This has been attempted in the past and proven to be ineffective costly.

The absence of either an Injunction, or a PSPO, would significantly reduce enforcement options in respect of this activity. Although it is likely that road traffic offences will be committed during car cruising activities (such as speeding and dangerous driving), these are more challenging for the police to enforce and not effective in controlling ancillary activities such as spectating, which causes obstruction of the highway.

Detailed Information

Car cruising problems in the Ashfield District

Car Cruising on and around Junction 27 of the M1 Motorway and the Hucknall bypass has been a significant problem for a number of years.

Car cruising is a term that describes the practice of large numbers of vehicles being gathered together and may involve;

- a. Motor vehicles are driven at excessive speed or accelerated aggressively;
- b. Motor vehicles are raced against one another;
- c. Stunts are performed in motor vehicles;
- d. Music is played on equipment installed in a motor vehicle which is audible outside the vehicle; or
- e. Motor vehicles are driven in convoy, whether side by side or in single file
- f. Sounding horns (so as to cause public nuisance)
- g. Congregating to spectate the above activities.

An injunction, which included tackling car cruising at Junction 27 of the M1 Motorway and surrounding roads, has been in place since January 2014 and is due to expire on 16th January 2018 (Copy of this Injunction detailed at Appendix 2). The enforcement of this Injunction has been successful and has helped to reduce the number of such occurrences and improve public safety. Prior to the current Injunction being implemented, there were regularly 200 plus vehicles congregating at the location, with the Police having minimal powers to deal with this. Even with the current injunction in place, there have still been many incidents of car cruising. 82 first stage Notices have been issued for breach of Injunction between June and October 2017. There have been no repeat breaches and therefore no prosecutions. Prosecution for a breach of injunction is more time consuming and costly than prosecution for a breach of the proposed PSPO. This activity is resource intensive and has limited deterrent effect.

There are still vehicles attending the location with intention of car cruising. On Sunday 17th September 2017 the Police attended the area and dealt with drivers of over 12 vehicles that had congregated. Six notices were issued to the drivers, who were from either Derby or Sheffield.

It can be seen that although the current Injunction has been a successful tool in combatting the problem of car cruising, there are still ongoing problems and it is anticipated that these will significantly worsen when the current Injunction expires in January 2018.

Public Places Protection Orders

The Anti-Social Behaviour, Crime and Policing Act 2014 introduced several new tools and powers for use by councils and their partners to address anti-social behaviour (ASB) in their area.

Public Spaces Protection Orders (PSPOs) are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that 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 is an order that identifies a particular space or area to which it will be applied; and can make requirements, or prohibitions, or both within that space or area. This means that the Local Authority can, by virtue of the order, require people to do, or not to do specific things in that space or area. The Local Authority has the powers to grant the prohibitions/requirements where it believes that they are reasonable in order to reduce or prevent the unwanted issues. The order can be applied to specific people, or everyone within an area and can apply at all times or within specific times.

The order can apply for a maximum of 3 years upon which the process of reviews and consultation must be repeated to check whether the issues are still occurring and the order is having the required effect. After the initial 3 years, the order can be extended for a further 3 years, and upon further reviews and consultation, can be extended more than once for further periods of 3 years.

Robust evidence must be forthcoming before a PSPO can be considered as an intervention. Nottinghamshire Police and Council officers have evidence of public complaints and evidence of the driving behaviour. Evidence from national media reports is also available to demonstrate the high risk to life posed by such driving behaviour. 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:

1. have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;

2. is, or is likely to be, persistent or continuing in nature;
3. is, or is likely to be, unreasonable; and
4. Justifies the restrictions imposed.

Use of PSPOs to tackle car cruising issues is now common. PSPOs for this issue are currently in place in a number of local authorities including Thurrock, Stockport, Trafford, Tamworth, Huntingdonshire, Enfield, Sandwell, Barking & Dagenham and Broxtowe Council (relating to the A610 from Junction 26 of the M1). In addition, Gedling Borough Council are currently preparing an application for a PSPO to address issues in their area. Service of Fixed Penalty Notices under a PSPO is less burdensome on the Police than enforcement of the current Injunction.

It is anticipated that the majority of the enforcement relating to the proposed PSPO will be carried out by Nottinghamshire Police. Powers to enforce the PSPO will also be given to the Council's Community Protection Officers, who will be able to assist Nottinghamshire Police, and dependant upon necessary risk assessments may be able to conduct enforcement themselves.

Consultation

In accordance with statutory requirements, prior to approval of a PSPO, the Council is required to undertake formal consultation.

The Council is obliged to consult with the local chief officer of police, the Police and Crime Commissioner, owners or occupiers of land within the affected area where reasonably practicable and appropriate community representatives. The County Council, parish or community councils that are in the proposed area covered by the PSPO must be notified.

The Act does not define the level of appropriate consultation. However, the Council will consult with those detailed above.

Consultation will be by way of press release on the Council's website and via social media. On site notices/posters will be displayed within prominent areas such as notice boards within the restricted area, a notice published in the local paper and hard copy documents available for inspection at the Council offices. The consultation will be for the duration of just over 5 weeks.

As recommended in Government Guidance on PSPOs, early engagement with partners in respect of car cruising issues has been undertaken during the last few months. A Junction 27 Working Group has been reviewing ongoing car cruising issues and gathering evidence.

Attached at Appendix 3 is a proposed timeline for implementation of a PSPO in place for car cruising. This would allow a PSPO to be in place by 12th February 2018.

Publication

The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 details publication requirements when a new PSPO is made.

A PSPO must be

1. published on the local authority's website
2. Erected on or adjacent to the place the Order relates to, and is sufficient to draw attention, setting out the effect of the Order and whether it has been made, varied or extended.

Once Council have determined to create and enact a PSPO for car cruising, appropriate street signage will be erected in the area affected. Nottinghamshire County Council have indicated their intention to fund creation and placement of signs

Implications

Corporate Plan:

Implementing a PSPO for car cruising will help tackle a significant public nuisance and public safety issue within the Ashfield district and be commensurate with current collaborative working approaches to tackling ASB by the Ashfield Community Safety Partnership.

Legal:

The council legal service have experience of development and implementation of PSPOs. The current PSPO which deals with alcohol consumption in designated areas, prohibition of urinating and defecating in public areas and various dog-related issues, came into force on 1st October 2015.

It is anticipated that there is capacity to support development and implementation of the plan. Legal resources required for enforcement/prosecutions is to some extent an unknown quantity. However, discussion with a number of local authorities concerning the implementation of such PSPOs has indicated that this has been a success, but with minimal prosecutions resulting from the service of FPNs.

Failure to comply with either a prohibition, or requirement stated within the order is an offence. Upon summary conviction (offences heard within the Magistrates Court) defendants can face a fine up to £1,000. 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. Subsequent breaches of the order can also be discharged by use of a Fixed Penalty Notice (FPN). The authority has the option to either prosecute or issue an FPN to discharge liability to convict (s67 & 68 of the ASB, Crime and Policing Act).

Finance:

Officer time PSPO development. For a single issue PSPO regarding car cruising, this can be kept to a low level as Nottinghamshire Police have relevant information on the continued need for action in respect of this problem. Work should be contained in existing job roles and salary budgets.

Advertising. The Council would have to commission public notices in local newspapers in respect of consultation and implementation of a PSPO. It is estimated that such advertising would be in the region of £600-£800. Although this is not a strict legal requirement, it would be considered good practice for the Council to publish such a notice in the local press

Signage: New signs would have to be designed, purchased and erected. Up to around 20-30 signs would be required in respect of car cruising. It is estimated that this would cost in the region of £1,000.

Enforcement: The majority of time required to issue fixed penalty notices would be shared by Nottinghamshire Police and the Council’s community protection team who would be authorised to serve such notices. An additional burden for the Council would be officer and legal time to take prosecution action in respect of non-payment of fixed penalty notices.

There would be a financial burden on the Council’s Legal team in terms of preparation of Court files and prosecution. It is difficult to estimate the number of likely number of cases due to the effectiveness of the current injunction. However, discussion with Local Authorities that have already implemented PSPOs for car cruising has revealed that prosecution cases following the issue of Fixed Penalty Notices are at a very low level.

It is anticipated therefore that the likely additional cost for implementation of a single issue PSPO relating to car cruising would be in the region of £1,800. These costs will be met through a community safety grant to the Ashfield Community Safety Partnership

Budget Area	Implication
General Fund – Revenue Budget	Nil
General Fund – Capital Programme	Nil
Housing Revenue Account – Revenue Budget	Nil
Housing Revenue Account – Capital Programme	Nil

Risk:

Risk	Mitigation
Public safety risks from car cruising should there be no PSPO or injunction in place to control car cruisers.	Nottinghamshire Police would still have powers to deal with dangerous driving, speeding etc. Although these powers are not as effective or easy to enforce, they would still have an impact on dealing with car cruising.
Council reputational risk in terms of effective partnership working and in the event of a serious accident, injury or death.	Implementing a new PSPO provides opportunity for excellent ongoing joint approach to tackling ASB as part of the Ashfield Community Safety Partnership.
Implementation of a new PSPO will displace car cruising activities to other areas of the district.	Local knowledge would suggest that any displacement is unlikely to be in the Ashfield District. Neighbouring districts are submitting similar applications to address potential displacement. Nottinghamshire Police would still have powers to deal with dangerous driving, speeding etc. Although these powers are not as effective or easy to enforce, they would still have an impact on dealing with car cruising.

Human Resources:

Impacts of introducing a new PSPO for car cruising would potentially give an additional burden in respect of CPOs and the Council's legal team. This relates to time to drafting the notice, officer time for consultation exercise, consideration of responses received, and to provide written responses where necessary, Officer time in the service of FPNs, processing of statements/cases and legal time to process and take legal cases to Court. It is anticipated however that Nottinghamshire Police be the primary enforcing agency for the proposed PSPO.

The Council have already committed to reviewing and developing further PSPOs in the Ashfield district. Development and implementation costs are not significant

Equalities *(to be completed by the author):*

In recommending consultation of the proposed PSPO, consideration has also been had to Articles 10 and 11 of the Human Rights Act 1998 which allows the rights to expression and assembly. However, the Human Rights Act does allow restriction of these human rights for the purposes of the prevention of crime and disorder, or to protect the health or the rights and freedoms of others. The proposals in the PSPOs are intended to ensure that the anti-social behaviours caused by the activities are addressed so that public spaces can be enjoyed without fear or intimidation by the law-abiding majority of the community.

Other Implications:

The PSPO is seeking to address issues which impact on quality of life and public safety. These issues can affect both the physical and mental well-being of residents and therefore these proposals would have a significant impact on community well-being.

Communications

A press release will be prepared to achieve the consultation together will regular further communications as this order is progressed.

Reason(s) for Urgency (if applicable):

N/A

Background Papers

Copy of Proposed PSPO at Appendix 1 (Attached)

Copy of existing Injunction at Appendix 2 (Attached)

Proposed timeline for implementation of a PSPO in place for car cruising at Appendix 3 (Attached)

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