

# WEST NORTHAMPTONSHIRE COUNCIL CABINET

14 November 2023

**Cabinet Member for Community Safety and Engagement:  
Councillor David Smith**

<b>Report Title</b>	<b>Public Spaces Protection Order – Emporium Way</b>
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## Contributors/Checkers/Approvers

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## List of Appendices

**Appendix 1 – Emporium Way location map and alternative routes**

**Appendix 2 – Draft Order**

**Appendix 3 – Consultation results** (available on request from Democratic Services  
([democraticservices@westnorthants.gov.uk](mailto:democraticservices@westnorthants.gov.uk)))

### 1. Purpose of Report

- 1.1. To agree to make a Public Spaces Protection Order (PSPO) under the Anti-Social Behaviour, Crime & Policing Act 2014 to restrict access to the Council-owned walkway, known as Emporium Way, that connects the north of the Market Square to Greyfriars, Lady's Lane and the Mayorhold Car

park.

## **2. Executive Summary**

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- 1.2. This report sets out the background for making a PSPO and the legal requirement to consult as well as the financial and legal implications of doing so. The report demonstrates the long-standing issues in the walkway, known as Emporium Way, and makes the recommendation to close the walkway and underpass by way of a Public Spaces Protection Order, initially for a period of three years.

## **3. Recommendations**

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- 3.1 It is recommended that Cabinet:
- a) Authorises the Executive Director Place and Economy to make a PSPO to restrict public access to the walkway known as Emporium Way in accordance with the results of the consultation as detailed in Appendix 3 and to carry out any outstanding legal requirements prior to it coming into force.
  - b) Approve that the PSPO is brought into force once the gates and hoardings restricting access to Emporium Way have been installed, which cannot be arranged until the decision whether to make the Order has been made.

## **4. Reason for Recommendations**

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- 4.1 A decision to approve the proposal will support the priorities of the Community Safety Partnership.
- 4.2 The recommendation is the preferred option of both partners and majority of members of the public responding to the consultation.

## **5. Report Background**

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- 5.1 The Anti-Social Behaviour, Crime and Policing Act 2014 provides local authorities and the Police with the powers to tackle anti-social behaviour and provide better protection for victims.
- 5.2 Since the introduction of the Anti-Social Behaviour, Crime and Policing Act 2014, gating of a highway can now be achieved by the making of a PSPO, simplifying the process and significantly reducing the financial outlay.
- 5.3 Public Spaces Protection Orders (PSPOs) are designed to stop all individuals, or a specific group of persons, committing Anti-Social behaviour in a public space. The criteria that must be satisfied when considering whether to make a PSPO is whether a particular activity or activities has or is likely to have a detrimental effect on the quality of life of those in the locality, that the activity is, or is likely to be, persistent or continuing in nature and unreasonable, and any restriction is justified.

- 5.4 PSPOs provide councils with a flexible power to implement local restrictions to address a range of Anti-Social behaviour issues in public places in order to prevent future problems.
- 5.5 It is important that PSPOs are used proportionately and that they are not seen to be targeting behaviour of children / young people where there is a lack of tolerance and understanding by local people.
- 5.6 A PSPO can be made for a maximum of three years. The legislation provides for the Order to be extended at the end of the period, but only for a further period of up to three years. However, Orders can be extended more than once. Local authorities can increase or reduce the restricted area of an existing Order, amend or remove a prohibition or requirement, or add a new prohibition or requirement. They can also discharge an Order. The variation or discharge of an Order are subject to statutory consultation requirements.
- 5.7 Enforcement may be shared between the Council and the Police. Breach of a PSPO is a criminal offence which can result in the issuing of a Fixed Penalty Notice (FPN) or a prosecution resulting in a fine of up to £1,000 on conviction. Enforcement can be undertaken by Council Officers, any person designated by a local authority for the purpose of issuing fines for breaches of a PSPO, and Police Officers.
- 5.8 Before making the Order, the local authority must notify people who are potentially affected by the proposed Order of how long they have to make representations, and consider any representations made.
- 5.9 West Northants Council approved the proposal to restrict public access to and gate off Francis Jetty in November 2022 and since its closure in May 2023 there has been a complete reduction in crime in the jetty.
- 5.10 Other problem public rights of way such as alleyways have been closed using the same legislation and have proved to have a positive impact on the community.

## **6. Issues and Choices**

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- 6.1 For many years, Emporium Way has been used as a place to conduct illicit activities, away from the scrutiny of passing pedestrians and other capable guardians such as the Police and wardens. Due to the low ceiling height in the underpass and layout of the alleyway, CCTV coverage is very limited and often tampered with.
- 6.2 Over the past six months a significant rise in crime and Anti-Social behaviour was raised by Northamptonshire Police and brought to the attention of the partnership group. Additional police presence was introduced alongside the disruption of the drug lines targeting children, and youth outreach provided by local youth providers. However, without constant police presence the issues continue to return.
- 6.3 Crime Data provided by Northants Police shows 20 recorded crimes from September 2021 to August 2023, increasing from 4 crimes between Sept. 2021 – Aug 2022 to 16 crimes in the same period the following year.

- 6.4 In addition, during the same two-year period 19 incidents were also recorded. Again, there has been an increase from 6 incidents between Sept 2021 – Aug 2022 to 13 incidents for the same period.
- 6.5 Northants Police Solar Team have reported 3 recent serious sexual offences in the alleyway; one guilty plea for an offence taking place in 2021 and two crimes currently under investigation from 2022 and 2023.
- 6.6 Issues witnessed by CCTV operators on a regular basis include; groups of young people causing criminal damage and Anti-Social behaviour, people buying, selling and using drugs and as a cut through for shoplifters, street drinkers and addicts to go from the town over to Oasis House and the Mounts area. In addition, the area is regularly used as a toilet, attracts vermin has been the location of numerous assaults.
- 6.7 There are two roaming cameras located in Emporium Way but due to the height of the space one is regularly vandalised.

## **7. Implications (including financial implications)**

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### **7.1 Resources and Financial**

- 7.1.1 A PSPO can be enforced by both the Police and Council. The Council will be the agency to process the Fixed Penalty Notices (FPNs), regardless of which agency issues them. The approach to this will be agreed with the Police.
- 7.1.2 Any income generated by payment of FPNs for a PSPO must be directed back into management of the PSPO process.
- 7.1.3 There is a financial implication for the purchase of the hoarding, installation and vinyl cover in the conservation area. The estimated cost is £7,500, this is likely to be funded jointly by WNC's Community Safety budget and through a matched contribution by the OPFCC.
- 7.1.4 The cost of the hoarding and installation will be jointly funded by the Community Safety budget, regeneration and supported by the Office of Police Fire and Crime Commissioner. Any maintenance required will be funded through the PSPO Fixed Penalty Notice pot.
- 7.1.5 In the past year there have been 11 callouts for the cameras costing £935 plus VAT over the year. 5 of these call outs took place in August/September 2023. In addition, the camera had to be replaced following vandalism in March 2022 at £1475 plus VAT.
- 7.1.6 A considerable amount of capital funding is currently being invested in Northampton Town Centre, with over £10million being invested in the adjacent Market Square. Emporium Way is located between the Market and the Greyfriars site, which has been derelict since 2015 but with current plans for WNC to appoint designers to provide significant large-scale development.
- 7.1.7 The choice of materials is the most cost-effective solution for a temporary structure compared with the cost of permanent gates.

7.1.8 Highways are currently uncertain as to whether Emporium Way has ever been formally adopted as part of the public highway and the land itself is owned by the Council. If it is not part of the public highway, then there would be no requirement for a PSPO to be made in order to restrict access to it. The Council as a private landowner could simply fence off the area. However, due to the fact that it appears to have been regularly used by the public as a right of way for at least the last 20 years, whether the Council has expressly or impliedly permitted that, it is thought that the best approach is to err on the side of caution and treat it as if it were part of the public highway.

## 7.2 Legal

7.2.1. Public Spaces Protection Orders can be made by local authorities only if they are satisfied on reasonable grounds that two conditions are met, which are

- i) 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 they will be carried within that area and that they will have such an effect and
- ii) The effect of the activities is, or is likely to be, of a persistent or continuing nature such as to make the activities unreasonable and this justifies the restrictions imposed by the Order.

7.2.1 There is a requirement for the Council to carry out a statutory consultation with the local Police force and any appropriate community representatives, as well as any owner or occupier of land within the proposed restricted area. In relation to proposals to restrict access to land, persons potentially affected must also be notified of the proposed PSPO and the period within which they may make representations about it. The Council has a legal duty to "consider" any representations received with regard to a proposed PSPO

7.2.2 In the context of this proposed PSPO, that includes owners and occupiers of adjoining or adjacent land who may have rights of access to the proposed restricted area. The reason for this is that a PSPO may not restrict a public right of way for the occupiers of premises adjoining or adjacent to a highway or where the right of way is the only or principal means of access to a dwelling.

7.2.3 The making of a PSPO can be challenged in the High Court by any interested person living within the restricted area or who works in or visits that area, within 6 weeks of it being made. The grounds on which an Order may be challenged are that there was no power to make it, that the particular prohibitions or requirements are unjustified or unnecessary or that there has been some defect of procedure in making it, which has substantially prejudiced the interests of the interested person.

7.2.4 When making a PSPO, a Council must have particular regard to the rights of freedom of expression and freedom of assembly set out in the European Convention on Human Rights.

7.2.5 The Crime and Disorder Act 1998 places a statutory duty on all local authorities to work in partnership with statutory, non-statutory, community and voluntary agencies to develop and implement strategies and policies for tackling crime and disorder.

7.2.6 Under Section 17 (1) (a) of the Crime and Disorder Act 1998, the Council has a statutory duty to

*“exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent ... crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment’.*

7.2.7 An Equality Impact Assessment screening has been completed, no issues have been raised.

7.2.8 There are no significant risks arising from the proposed recommendations in this report.

### 7.3 Consultation and Communication

7.3.1 For the proposed area to be restricted, there is a requirement for the Council to undertake a statutory public consultation exercise with the following, as a minimum:

- (a) The chief officer of police, and the local policing body for the area;
- (b) Whatever community representatives the local authority thinks it appropriate to consult;
- (c) The owner or occupier of land within the area;
- (d) The parish council or community council (if any) for the area; and
- (e) The county council (if any) for the area.

7.3.2 On 22 August 2023, the Executive Director of Place and Economy authorised the undertaking of a public consultation on the proposed making of a PSPO restricting public access to Emporium Way.

7.3.3 The 4-week public consultation ran from 23 August 2023 to 19 September 2023. The consultation survey was hosted on the West Northants Council -consultation hub and promoted via the Council’s media channels. The consultation was circulated to local media and stakeholders, including West Northants Residents Panel and members of the West Northants Consultation Register.

Internal and external stakeholders and partners consulted include:

- Legal Service, WNC
- Environmental Health and Licensing, WNC
- Northants Police
- Crime Prevention Design Advisors, Northants Police
- Northants Fire and Rescue Service
- Conservation, WNC
- Planning Services, WNC
- Highways, WNC
- Northampton Business Improvement District
- Office of the Police, Fire Crime Commissioner
- Community Safety, WNC
- Regeneration, WNC
- Northampton Town Council
- Grosvenor Centre

- Northampton Business Improvement District (BID)

- 7.3.4 Northants Police offers full support for the proposals. They request the area is closed from public access, until such a time that it may be regenerated. This is due to the poor design, the unsafe and unsecured buildings being accessed regularly, and the high levels of crime in the area.
- 7.3.5 In addition, the Detective Inspector for Serious Sexual Offences responded to say that this is a place where vulnerable people can be easily enticed by people who wish them harm. The victims may feel a sense of safety as a result of its proximity to an area of high footfall. However, the alley itself is secluded and not visible.
- 7.3.6 CCTV operators continue to witness crime and anti-social behaviour on a regular basis in Emporium Way, as well as the cameras being repeatedly vandalised, and are in support of the proposal to close the walkway.
- 7.3.7 Northamptonshire Fire and Rescue Service highlighted the need for any adjacent buildings with fire escapes leading through Emporium Way to have means of releasing themselves from the area. On these recommendations, quotes have been obtained to include a fire exit onto Sheep Street.
- 7.3.8 Conservation officers at WNC advised that the south entrance via Market Square is within the All Saints Conservation area and any long-standing barrier would need to be of an appropriate style. As a result, we have revised plans to include vinyl covering reflecting the conservation area to improve the overall look should the Market Square reopen prior to other works being completed and the restrictions reviewed.
- 7.3.9 The public responses to the consultation overall, support the proposal for the PSPO at Emporium Way to prevent crime and anti-social behaviour, with 68% in favour of restricting public access to the highway for 24 hours a day, 7 days a week, as opposed to 25% against, and 7% with no opinion.
- 7.3.10 Most respondents believe anti-social behaviour and crime are an issue in Emporium Way, 68% compared to 11% who believe it is not, and 20% who are unsure. 40% had personally witnessed ASB or illegal activity in the walkway, with a further 3% who would rather not say compared to 56% of people who had not.
- 7.3.11 When asked how safe they felt using Emporium Way, 65% did not feel safe, with 41% stating they felt very unsafe and 24% unsafe, compared to 15% feeling safe, or very safe.
- 7.3.12 54% of respondents state that the behaviours they have witnessed in Emporium Way always impact on their experience of the town centre whilst a further 35% say it sometimes does, compared to just 10% for whom it has no impact on their experience.
- 7.3.13 When asked if they agreed with the alternative acceptable routes, 64% of people agreed, 19% disagreed, and 17% neither agreed nor disagreed or had no opinion.
- 7.3.14 Several responses described their experience of issues as lone females, including feeling scared, being harassed and public indecency/exposure by men urinating in the alley.

7.3.15 In addition to questions around safety, the consultation asked what the public would like to see made of the space in future. Whilst several comments suggested it could never be made useful, others highlighted the need to improve the space to reflect the adjacent developments and investment to ensure businesses come into the town. Suggestions included:

- Physical improvements such as better lighting and cameras
- Community gardens, a park or green space
- Urban skate park
- Market stalls, Street Food space with seating
- Retain the ability to close it overnight
- Public art gallery space
- Change the above road layout to open up the space.

7.3.16 Subject to its approval, the PSPO will be communicated to local communities and other relevant stakeholders through the Council's designated channels to ensure wider public awareness. All PSPOs are also published on West Northants Council website.

#### **7.4 Consideration by Overview and Scrutiny**

7.4.1 None.

#### **7.5 Climate Impact**

7.5.1 None.

#### **7.6 Community Impact**

7.6.1 One of the Council's priorities is for "safer communities with less Anti-Social behaviour" and the proposed PSPO will contribute towards this priority.

7.6.2 Equality impact Screening assessment completed to assess the impact on a range of communities, no issues raised.

### **8. Background Papers**

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8.1 Anti-Social Behaviour, Crime and Policing Act 2014: Reform of Anti-Social Behaviours Powers Statutory Guidance for Frontline Professionals.