AGENDA ITEM:

SUMMARY

Report for:	**Housing and Community Overview and Scrutiny Committee**
Date of meeting:	**21st March 2018**
Part:	**1**
If Part II, reason:	

Title of report:	**Public Spaces Protection Orders – Hemel Hempstead Town Centre**
Contact:	Councillor Janice Marshall Portfolio Holder for Environmental, Sustainability and Regulatory Services Author/Responsible Officer: Mark Brookes – Solicitor to the Council David Austin – Assistant Director (Neighbourhood Delivery)
Purpose of report:	To propose the introduction of a Public Spaces Protection Order to provide a means of controlling a number of activities having a detrimental effect on the quality of life for those living in, working in and visiting Hemel Hempstead town centre.
Recommendations	**That Scrutiny Committee note the following recommendations to Cabinet:** That Cabinet agree: 1.To commence a statutory consultation on a proposal to introduce a Public Spaces Protection Order in accordance with the draft order and plan annexed at Appendix A, to include the following prohibitions: *(a) Not to Spit (including discharge of chewing gum), urinate or defecate in a public place within the area coloured blue on order plan 1* *(b) Not to Cycle or skateboard within the area coloured blue on order plan 2.*

	2. To delegate authority to the Portfolio Holder for Environmental, Sustainability and Regulatory Services in consultation with the Assistant Director (Neighbourhood Delivery) to consider representations made pursuant to the statutory consultation and confirm or amend the PSPO as appropriate. 3. To set £75 as the sum payable for a fixed penalty notice. 4. To note the contents of the report in respect of Designated Public Places Orders (section 2) and note that they will transfer to PSPOs and shall remain in force for a period of three years from 20 October 2017 and shall then be the subject of review.
Corporate Objectives:	Safe and Clean Environment • Maintain a clean and safe environment
Implications: 'Value For Money Implications'	<u>Financial</u> In areas where an Order has effect, the local authority must arrange for the display of signage advising of the effect of the Order. There is no prescribed format nor size requirements for these signs, and costs will ultimately depend upon the number of signs required and the design/materials used. There will be ongoing maintenance costs to replace any damaged signage. There may be additional income from fixed penalty notices, which could partially defray the costs of enforcing the Order. No data is held that would allow an estimate for the likely income, as much would depend on the availability of resources to carry out enforcement activities. It is proposed that enforcement of the PSPO will be carried out within existing resources. <u>Value for Money</u> PSPO's are seen as a more cost-effective means of controlling the activities in question than under byelaws, also providing a wider range of enforcement options.
Risk Implications	There will be risks associated with Council enforcement officers who will be tasked with enforcing the PSPO and appropriate training will need to be given. Individual risk assessments will be completed for the enforcement activity and all reasonable precautions taken to minimise any risk. There are also reputational risks in terms of the council being perceived as enforcing against vulnerable persons and seeking to criminalise certain behaviours which wouldn't normally attract fixed penalty notices or prosecution for non-payment.

	There are also limited resources for enforcement and therefore enforcement will have to be targeted at certain periods. The PSPO will raise expectations that prohibited behaviours will be eliminated entirely; however due to difficulties in identifying some of the contraventions and taking a proportionate approach to enforcement there will not always be immediate results which will be noticeable to the public.
Community Impact Assessment	A Community Impact Assessment has been completed and a copy is annexed to this report.
Health And Safety Implications	Some H&S implications may arise from the enforcement of orders, and will be incorporated within individual service risk assessments for authorised enforcing officers.
Monitoring Officer/S.151 Officer Comments	**Monitoring Officer:** The PSPO will assist with the prevention of anti-social behaviour in the town centre. There will need to be a proportionate approach to enforcement particularly where the order is being breached by young and vulnerable persons. **S.151 Officer** **********
Consultees:	Corporate Management Team Strategic Planning and Environment Overview and Scrutiny Committee Insert feedback Housing and Community Overview and Scrutiny Committee (insert date) Insert feedback
Background papers:	Home Office – Reform of anti-social behaviour powers: Statutory guidance for frontline professionals (section 2.6) Home Office - Anti-social behaviour powers Statutory guidance for frontline professionals Updated December 2017 Cabinet report dated 25th July 2017. PSPO Consultation questionnaire analysis (numerical analysis of response to questions) – Appendix B Consultation analysis by Opinion Research Services (written

	comments) – Appendix C
Glossary of acronyms and any other abbreviations used in this report:	PSPO – Public Spaces Protection Order DPPO – Designated Public Places Order CSAS – Community Safety Accreditation Scheme FPNs – Fixed Penalty Notices

1. Background

1.1. Under the Anti-social Behaviour, Crime and Policing Act 2014, local authorities may make orders to prohibit specified activities, and/or require specified activities to be carried on in accordance with certain requirements, within a designated area in the public domain, which may include public highways and footways, parks and open spaces, pedestrianised areas, or similar. Such orders are known as Public Spaces Protection Orders (PSPO).

1.2. PSPO's can be used by authorities to control a variety of problematic behaviours which satisfy two statutory conditions:

"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."

1.3. Prohibitions or requirements on activities covered by a PSPO must be reasonable in order to:

(a) prevent the detrimental effect from continuing, occurring or recurring, or
(b) reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

1.4. Where a PSPO is in force, it is a criminal offence to do anything which is prohibited under the Order, or to fail to comply with requirements of the Order. Persons guilty of such offences are liable, on summary conviction, to a fine not exceeding level 3 on the standard scale (currently up to £1,000). Offences may also be disposed of by way of a fixed penalty notice of up to £100, payable to the local authority.

1.5. PSPOs may be enforced by a police officer, PCSO, or a person authorised by the local authority for that purpose. The Police have agreed to support the PSPO where resources allow; however, it is expected that the local authority will lead on the enforcement of any Orders made.

1.6. A PSPO will be valid for a period of up to 3 years, at the end of which it may be extended. Orders may also be varied or discharged by the local authority at any time during their validity.

1.7. Prior to making, extending, varying or discharging a PSPO, a local authority must:

- Consult the chief officer of police and the Policing and Crime Commissioner for the applicable area; any community representatives that it is thought appropriate to consult; and the owners/occupiers of land included within the restricted area;
- Publish the draft Order (or details of variation/discharge proposal);
- Notify any parish/town councils within the restricted area, and the County Council;

with regards to its proposals. The authority must also consider its proposed restrictions against the rights of freedom of expression (Article 10) and assembly (Article 11) under the European Convention on Human Rights. The proposed restrictions have been considered against the rights in Article 10 and 11 but it is not considered that there will be any infringement on these rights. If there is any infringement it is considered that it is proportionate for the prevention of disorder and crime.

1.8. PSPO's may apply to all persons or only to persons in/not in specified categories; at all times or only within/not in specified times; and in all circumstances or only in/not in specified circumstances.

1.9. The power to make PSPO's replaced and consolidated several earlier area-control orders, including designated public place orders which have previously been used by the Council in respect of street drinking (see section 2). Where a PSPO includes prohibitions on the consumption of alcohol in a public space, there are additional enforcement powers available to police and authorised officers, allowing them to require any person not to consume alcohol in breach of the Order, and to surrender any alcohol in their possession for disposal. Failing to comply with such a requirement constitutes a different offence, subject on summary conviction to a fine not exceeding level 2 on the standard scale (currently up to £500).

1.10 Prohibitions on alcohol consumption will not apply to any part of a licensed premises, including beer gardens and terraces, with the expectation that the management of those premises will control the consumption of alcohol within the curtilage of their premises, under threat of a licence review if they failed to do so. Public spaces which are licensed for the sale of alcohol (e.g. parks licensed for events) are also exempted at times when alcohol is being lawfully sold there.

1.11 PSPO's may be challenged in the High Court by any person who lives in, regularly works in or regularly visits a restricted area, within 6 weeks of an Order being made or varied.

2. Designated Public Places Orders

DPPOs

2.1 DPPOs were introduced by Section 13 of the Criminal Justice and Police 2001 Act and allowed local authorities to designate public areas where the consumption of alcohol is restricted. They give authorised officers, including Community Protection Officers, Police Officers and Police Community Support Officers, the power to require a person not to drink alcohol in the restricted area where that officer reasonably believes that the person has or intends to do so. In addition authorised officers have the power to ask that person to surrender the alcohol and any opened or sealed containers in their possession.

2.2 It is not an offence to drink alcohol in a restricted area, per se, but it is an offence to fail to comply with the request of an authorised officer to cease drinking or to surrender alcohol in such an area.

2.3 The Council currently has 6 DPPOs in force which cover the following areas:

Hemel Hempstead town centre, Gadebridge Park, Old Town, Randall Park

Berkhamsted and Northchurch

Bovingdon

Boxmoor

Evans Wharf, Aspley Lock

Frogmore End, Durrants Hill Road

2.4 The plans with the precise areas covered by these orders are at Appendix D. The areas to be covered by the DPPOs were suggested by the Police and approved by the Licensing Committee when they were first brought into force in 2006 and 2007 and combine to provide wide coverage, covering all publicly accessible places such as highways, squares, pedestrian areas, public conveniences, doorways, entrances and other open areas within the administrative area of the Council.

2.5 Transitional provisions contained within the Anti-Social Behaviour Crime and Policing Act 2014 provide for DPPOs that were in force on 20 October 2014, including the Dacorum DPPOs, to remain in force until 19 October 2017. From 20 October 2017, they will remain in force for a further three year period as if the provisions of the DPPO were provisions of a Public Spaces Protection Orders (PSPO).

2.6 There are no proposals to review the old DPPOs (now PSPOs) at this stage and they will therefore continue in force until 19th October 2020.

3. Proposal for new PSPO

3.1. Concerns exist around a number of activities currently occurring within Hemel Hempstead town centre, and the old town, which are considered detrimental to the quality of life for persons living in and using that area. It is also intended to include the Water Gardens within the PSPO as displacement from the town centre may move activity from the town centre into that area if it is not covered.

3.2. It is therefore proposed to introduce a PSPO covering this area, which would have the following effect:

To prohibit the following activities in public spaces within the restricted area:

(a) Spitting (including discharge of chewing gum), urinate or defecate in a public place within the area coloured blue on order plan 1.
(b) Cycle or skateboard within the area coloured blue on order plan 2.

3.3 The public consultation also considered three further prohibitions as follows:

(i) Sleeping in any public place within the designated area which is:

- open to the air
- within a car park
- within a no-fixed structure including caravans and tents

Without the prior permission of the owner or occupier of the land

(ii) Sitting or standing on the ground in a public place, street, highway or passage within the designated area in a manner to be perceived that you are inviting people to give you money.

(iii) Feeding birds/wildfowl in the water gardens area

However, for the reasons set out in the report below it is believed that there are more appropriate and proportionate enforcement alternatives for attempting to deal with these issues and therefore is it not proposed to include these prohibitions in the PSPO.

3.4 The consultation did also ask for views on restricting the consumption of alcohol within the designated area shown on the order plan and for the reasons set out in section 5 it is proposed to continue this restriction as part of the existing PSPOs (formerly DPPOs).

3.5 Littering is not included because littering is already an offence under the Environmental Protection Act 1990 for which the Council is authorised to serve fixed penalty notices. This would include discharging cigarette ends on the ground which was an issue raised in the consultation.

3.6 The area in which it is proposed to apply such restrictions is shown on the Order Plans at Appendix A.

4. Consultation

Following Cabinet's recommendation in July 2017 a public consultation was initiated which invited comments from residents and interest groups on the proposals for the PSPO. In total there were 870 responses to the consultation and a summary of the responses provided under each proposal is set out below. Members will also find annexed to this report a consultation questionnaire analysis, which is a numerical analysis of responses to questions (see Appendix B), and a consultation analysis by Opinion Research Services which analyses responses provided in the written "additional comments" section of each question (see Appendix C)

4.1. Aside from ensuring that the statutory tests, particularly in respect of proportionality and justifiability, are satisfied, there are a number of considerations around the introduction of PSPO's which would also need to be considered and are highlighted further below

5. Consuming Alcohol

Proposed restriction: Not to consume alcohol within the designated area

5.1 The consultation highlighted that drinking in public areas is a problem which has an impact on the enjoyment of the area. 56.1% of respondents commented that it was a problem with 39.5% saying that it impacted on their enjoyment of the area. Furthermore, 71.7% supported the inclusion of the prohibition in the PSPO. 67% of those responding to the additional comments section mentioned that they had witnessed drinking or drunks hanging around.

Examples include: People drinking strong alcohol in large groups in the water gardens. Several individuals drinking alcohol together at market square and obviously drunk - very off-putting when walking past and going shopping

50% said they feel intimidated or have experienced abusive/aggressive behaviour from people in the area. Examples include: Daytime street drinking and begging in these areas is intimidating and antisocial less so on myself but more on children. The atmosphere always seems a little tense.

However, 10% of those who provided additional comments stated they do not have a problem with drunks/drinking in the area, and a further 10% said it should not be a blanket proposal/should only apply to those behaving anti-socially.

5.2 Section 63 of the Anti-Social Behaviour Crime and Policing Act 2014 specifically provides for a prohibition on the consumption of alcohol in breach of a PSPO and provides that a constable or authorised officer *may*, (emphasis added) subject to reasonable belief as to a breach, require a person to cease consuming alcohol and surrender the alcohol. As such it is considered that the power to enforce the prohibition on alcohol consumption is discretionary and those consuming alcohol responsibly would not necessarily face sanction as a consequence of PSPO which is intended to deal with problem drinkers and their associated anti-social behaviour. As such there ought to be no issues as regards the Order restricting markets, festivals, temporary events and such like.

5.3 Due to the nature of this prohibition enforcement actions will generally need to take place in the evening and therefore this will need to be planned appropriately taking account of available resources. Approaching persons who have consumed alcohol and the risks that follow that action will also be reflected in the planned enforcement activities in order to minimise any risk to council staff.

5.4 As noted in paragraph 2.3 above, the town centre, old town, water gardens and Gadebridge Park are already included in a PSPO prohibiting the consumption of alcohol by virtue of transitional provisions relating to DPPOs. This will stay in force until October 2020 and will then be reviewed.

5.5 The consultation clearly highlighted that the public believe that drinking alcohol is still an issue within the town centre, old town, water gardens and Gadebridge Park and therefore this will continue to be restricted by the transitional PSPO.

6. Cycling and Skateboarding

Proposed Restriction: No person shall cycle or skateboard within the area coloured blue on order plan 2.

6.1. The consultation highlighted that cycling and skateboarding in the town centre is perceived to be a problem which has an impact on the enjoyment of the area. 61.1% of respondents commented that it was a problem with 56.7% saying that it impacted on their enjoyment of the area. Furthermore, 61.9% supported the inclusion of the prohibition in the PSPO. The specific comments made by respondents highlighted problems with people being at risk from injury by persons cycling or skateboarding and aggressive or intimidating behaviour. However, respondents also commented a blanket ban would not be appropriate as it may push people into more dangerous areas and respondents also highlighted that it is a healthy activity which should not be discouraged.

6.2. It is not the intention of the PSPO to stop people cycling or skateboarding to and from the town centre and using this as a means of travel; however, in a pedestrianised area such as the town centre there is a conflict if users are riding through a heavily congested area particularly if users are acting inconsiderately. The prohibition will not stop persons from dismounting and walking with their cycle or skateboard once they have arrived within the town centre.

6.3. Concerns were raised in the consultation that the order plan was too wide and included areas which are used as a legitimate cycle routes such as Waterhouse Street and the Old Town. The plan has therefore been amended to limit the prohibition to the main pedestrianised area of Marlowes but extended to include the market square. The Water Gardens will also be included to prevent displacement to that area.

6.4. Fixed penalty notices will only be issued for repeat offenders once a formal warning has been given. Contraventions of the proposed prohibitions may be by juveniles (aged 10-17) and separate procedures are being developed for enforcing against this age group and ensuring that sufficient warnings are given, including notice to parents where appropriate. Community Protection Notices will also be considered where appropriate.

6.5. In summary, the consultation responses highlight that cycling and skateboarding is an issue within the town centre and it is therefore recommend to be included in the proposed PSPO.

7. Spitting (including discharge of chewing gum), public defaecation or urination.

Proposed Restriction: Not to Spit (including discharge of chewing gum), urinate or defecate in a public place within the area coloured blue on order plan 1.

7.1 The consultation highlighted that the proposed prohibition was a problem which has an impact on the enjoyment of the area. 68.9% of respondents commented that it was a problem with 53.5% saying that it impacted on their enjoyment of the area. Furthermore, 83.1% supported the inclusion of the prohibition in the PSPO.

7.2 Specific issues highlighted included that chewing gum on pavements was an issue and is evidenced by significant areas of newly laid paving now being covered with chewing gum. Respondents reported issues with standing in chewing gum and it getting stuck to pushchairs.

7.3 There have also been reports of urinating/defaecation in public areas of the town centre, particularly in areas around the Full House public house.

7.4 The prohibited activity will often be linked to the consumption of alcohol and enforcement actions will generally need to take place in the evening and therefore this will need to be planned appropriately taking account of available resources.

7.5 It should be noted that identifying persons who spit or discharge chewing gum or urinate/defecate will be problematic unless there is a permanent enforcement presence in the designated areas which is not going to be realistic within existing resources. Accordingly, enforcement will have to be targeted to agreed operations at particular times of the year.

7.6. In summary however, and noting the issues with enforcement, the consultation responses highlight that spitting, urinating and defecating is an issue within the town centre and it is therefore recommend to be included in the proposed PSPO.

7.7 It is also recommended that this prohibition is supported by increasing the number of waste bins specifically for chewing gum and cigarettes and this is being actioned by the Clean Safe and Green Team.

8. Unauthorised Encampments

Proposed restriction: Not to sleep in any public place within the designated area which is:

- open to the air
- within a car park
- within a no-fixed structure including caravans and tents

Without the prior permission of the owner or occupier of the land

8.1 The consultation highlighted that roughsleeping in the town centre is perceived to be a problem which has an impact on the enjoyment of the area. 57.7% of respondents commented that it was a problem with 44.3% saying that it impacted on their enjoyment of the area. Furthermore, 60.1% supported the inclusion of the prohibition in the PSPO. The specific comments made by respondents highlighted problems with people being or feeling threatened or intimidated, problems with begging, and rubbish being left and making the area look untidy. However, there were also clear concerns that banning roughsleeping or criminalising the issue will not help the issue, is the wrong approach and that more help should be given to those who are homeless.

8.2 It is acknowledged that serving a fixed penalty notice on a homeless person, or prosecution for non-payment is not likely to resolve the individual's personal issues and the primary aim of the council is always to provide assistance and advice to try and help the person to find a permanent home in accordance with the Council's homelessness policies.

8.3 There are however some cases where enforcement is appropriate, particularly if there is anti-social behaviour linked to persons residing within the designated area. Officers will always consider if alternative powers for enforcement are appropriate such as Community Protection Notices (CPN). CPNs can be served if the conduct of the individual or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and the conduct is unreasonable. The CPN can require the person to stop doing the act which is causing the issue. If the activity continues in breach of the CPN then the Council can prosecute for non-compliance. CPNs are therefore an alternative which will be considered on a case by case basis as they do not impose an immediate financial penalty on the person. CPNs have been successfully used by the Council in the recent past and are an effective enforcement tool.

8.4 The Council also has the power to apply for an anti-social behaviour injunction if the person has engaged or threatens to engage in anti-social behaviour (conduct that has caused, or is likely to cause, harassment, alarm or distress to any person). This power has been used against persons who have been roughsleeping in the town centre where they have also been involved in threatening anti-social behaviour and will also be considered on a case by case basis.

8.5 The Home Office in December 2017 has also issued revised guidance to Council's on the use of PSPO's against homeless and persons rough sleeping, which was issued after the end of the public consultation. This includes a section which states:

"Public Spaces Protection Orders should not be used to target people based solely on the fact that someone is homeless or rough sleeping, as this in itself is unlikely to mean that such behaviour is having an unreasonably detrimental effect on the community's quality of life which justifies the restrictions imposed. Councils may receive complaints about homeless people, but they should consider whether the use of a Public Spaces Protection Order is the appropriate response. These Orders should be used only to address any specific behaviour that is causing a detrimental effect on the community's quality of life which is beyond the control of the person concerned".

8.6 The issue of roughsleeping is clearly one which concerns members of the public and affects their enjoyment of the town centre; however on balance it is believed the use of CPN's and injunctions to address any anti-social behaviour related to the rough sleeping will be a more proportionate and effective means of attempting to deal with the issues. This approach will direct enforcement to the individuals concerned and target the inappropriate behaviour directly rather than a blanket ban across the designated areas.

8.7 It is therefore not proposed to include the prohibition on rough sleeping in the PSPO and this approach would also be consistent with the revised Home Office guidance.

9. Begging

Proposed restriction: No sitting or standing on the ground in a public place, street, highway or passage within the designated area in a manner to be perceived that you are inviting people to give you money.

9.1 The consultation highlighted that begging in the town centre is perceived to be a problem which has an impact on the enjoyment of the area. 60% of respondents commented that it was a problem with 45.9% saying that it impacted on their enjoyment of the area. Furthermore, 67.4% supported the inclusion of the prohibition in the PSPO. The specific comments made by respondents highlighted problems with aggressive and persistent begging, and feeling threatened or intimidated and having a negative impact on the town centre. However, there were also clear concerns that more help should be given to persons who are begging and banning or criminalising the issue will not help the issue and is the wrong approach.

9.2 This has been a reported issue in the town centre for some time which is particularly linked to rough sleepers and the homeless. The considerations of this prohibition are very similar to those of roughsleeping in terms of ensuring a proportionate approach as enforcing against those who have limited or no means to pay a fixed penalty notice is unlikely to be successful.

9.3 The Council has obtained injunctions against those aggressively begging in the town centre in the recent past which has proved a successful remedy although it is time consuming and resource intensive to obtain court orders. The remedy will continue to be considered on a case by case basis as well as Community Protection Notices.

9.4 Charity collections were also raised as an issue in the consultation responses; however, it is not recommend to prohibit this activity entirely. Charity collections (Direct Debit) are currently managed by the Public Fundraising Regulatory Association (PRFA) and cash collections are licensed by the Council and therefore sufficient protection is in place to manage and regulate this activity.

9.5 The issue of begging, particularly aggressive begging is one which the consultation shows concerns members of the public and affects their enjoyment of the town centre; however, the consideration is whether to include it in the PSPO or seek to address the issue by alternative powers such as CPN's or injunctions, which are directed to the individual rather than a blanket ban based on the designated area and these powers have been successfully used in the past.

9.6 The revised Home Office guidance is relevant because most of those begging are homeless and roughsleeping and therefore the general guidance (although not specifically directed to begging) is that a PSPO may not be appropriate. Aggressive begging is however noted in the section on injunctions as an appropriate use of that power.

9.7 On balance, it is recommended that a consistent approach regarding those who are homeless, roughsleeping and/or begging be taken and therefore begging is not recommended for inclusion within the PSPO, but enforcement action will continue to be taken using CPN's and/or injunctions where appropriate and the position be kept under review.

10. Feeding of Birds/Wildfowl

Proposed Restriction: Not to feed birds/wildfowl in the water gardens area as shown coloured yellow on the order plan

10.1 The consultation highlighted that the majority of respondents did not believe that the proposed prohibition was a problem which has an impact on the enjoyment of the area. 28.2% of respondents believed that it was a problem with 20.3% saying that it impacted on their enjoyment of the area. Furthermore, 28.7% supported the inclusion of the prohibition in the PSPO.

10.2 Geese in the Water Gardens area are an undoubted issue as they cause damage to the grass verges and leave faeces on the adjoining pathways. Feeding of the geese is an issue which contributes to attracting the geese to the area; however, they mainly feed on the grass which is a constant source of food and it is therefore doubtful that the proposed restriction alone would prevent geese from coming to the area. .

10.3 It is therefore questionable that the statutory test for a PSPO would be met in respect of this prohibition because prohibiting the feeding of the birds/wildfowl is unlikely in its own right to stop them coming to the Water Gardens area.

10.4. It is therefore recommended that advisory signs are erected asking persons to stop feedings the birds/wildfowl and this be monitored for effectiveness rather than including the prohibition in the PSPO and this has now been actioned in the Water Gardens.

11. Enforcement

11.1 If the Order is imposed, consideration will also need to be given to enforcement as there will be raised expectations from the public which will need to be managed. For example, a PSPO does not in its own right allow people to be moved on from a particular area. A stepped and proportionate approach to sanction will need to be developed.

11.2 Enforcement officers will need to be mindful of the circumstances of those to whom the Order is most likely to apply i.e. the homeless (be they genuine or otherwise); and others likely to have substance and/ or alcohol misuse problems and mental health issues. Given the precarious financial position of many, the effectiveness of issuing FPNs is likely to be of limited effect; similarly, endeavouring to institute a prosecution against such

individuals, particularly if they are of no fixed abode for the purpose of serving a summons.

11.3 Likely to be equally problematic will be securing the attendance of such individuals at court. Consideration will also need to be given to the perception of the courts and the public as regards enforcement action against individual who may be vulnerable and therefore a proportionate approach to enforcement will be taken in accordance with the draft Enforcement Protocol which is current being developed.

11.4 Furthermore, there is currently no dedicated resource for town centre enforcement and enforcement sits across a numbers of different council services. Accordingly, a coordinated and targeted approach to enforcement, working together with other enforcement agencies, will need to be developed. Many of the behaviours which the PSPO seeks to prohibit occur outside of normal working hours and therefore enforcement will need to plan for these times.

12. Consultation

12.1 If Cabinet is satisfied that the relevant statutory requirements are met, a statutory consultation will commence at the earliest opportunity for a six week period.

13. Recommendations

13.1 To consult on a draft Public Spaces Protection Order, applying to the restricted area as shown at Annex A, to prohibit/regulate the activities identified at para 3.2.

13.1.1 To delegate authority to the Portfolio Holder for Environmental, Sustainability and Regulatory Services in consultation with the Assistant Director (Neighbourhood Delivery) to consider representations made pursuant to the statutory consultation and confirm or amend the PSPO as appropriate.