



Committee and Date

Item

Public



## Proposed Amendment and/or Extension of Shrewsbury Town Centre Public Spaces Protection Order (No.1) 2017

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<b>Cabinet Member (Portfolio Holder):</b>	Cllr Richard Marshall		

### 1. Synopsis

To seek a renewal from 1 August 2023 of the Shrewsbury Town Centre Public Spaces Protection Order for three years with variations to give extra powers to the Police and to the Council to address specific anti-social behaviours.

### 2. Executive Summary

- 2.1. This report has been prepared in line with The Shropshire Plan. It specifically relates to the Healthy Economy strategic priority and the strategic objective that the Council will develop Shropshire as a safe, strong and vibrant destination to attract people to live in, work in, learn in and visit the county.
- 2.2. The Shrewsbury Town Centre Public Spaces Protection Order (No.1) 2017 ('the Order') was originally approved by Cabinet on 21 June 2017 with an effective commencement date of 1 August 2017.
- 2.3. Cabinet approved the renewal of the Order, without any variation, on 6 July 2020 and this took effect from 1 August 2020. This is the existing Order, which will expire on 31 July 2023.
- 2.4. A public consultation to extend/vary the existing Order has been undertaken, which sought comments from statutory consultees as well as other interested parties and the public. Over 65 responses to the consultation were received, all of

which fully support extending the Order with the current provisions. The majority of those who responded were also in favour of varying the Order to include three new provisions, together with the power for the Council to authorise other persons to act under the Order.

- 2.5. The proposed Order now includes the original four prohibitions, specifically:
- urinating/defecating;
  - leaving personal belongings;
  - a wider enabling provision to require a person to stop drinking alcohol and/or hand over alcohol if causing anti-social behaviour; and
  - a wider enabling provision to require a person to leave an area if causing anti-social behaviour.
- 2.6. Together with three new provisions that would enable an authorised officer to tackle additional specific behaviours that are causing nuisance, alarm, harassment or distress under the following circumstances:
- where a person is 'sitting or lying on any footpath or pedestrian area or in any fire escape, stairway or other entrance or exit to any premises within the protected area',
  - where a person is within a public toilet; and
  - where a person is using a device intended to amplify sound.
- 2.7. There is also a proposal to extend the definition of an authorised officer under the Order to include 'any person authorised by Shropshire Council'.
- 2.8. West Mercia Police ('the Police'), who are a statutory consultee and currently the main agency responsible for undertaking the day-to-day enforcement of the Order, in partnership with the Council, are in support of extending and varying the Order to include the additional measures; however, they do not consider that the Police should enforce the provision relating to the use of a device intended to amplify sound and that this provision ought to be the responsibility of the Council.
- 2.9. The Police have requested an increase in the level of enforcement by Council Officers and other parties (authorised by the Council) and, as a result, have sought to amend the Memorandum of Understanding (MoU), which was agreed when the Order was originally brought into effect in 2017 between the Council and the Police, for the purposes of enforcing the Order. To facilitate this and to increase the flexibility afforded to the Council to make more efficient use of external resources, it is proposed that the authority to enter into future MoUs is delegated to appropriate Chief Officers with responsibility for functions relevant to the Order.
- 2.10. Initially, in response to the consultation, the Council service with responsibility for the enforcement of statutory noise nuisance at domestic premises, expressed concerns that officers may not be in a position to undertake enforcement action under the revised Order. However, further exploration of these concerns was undertaken, and agreement subsequently reached confirming this is now achievable; nevertheless, limited capacity means enforcement will extend to cases only insofar as they relate to a person using a device to amplify music. The potential for 'other persons' to be authorised by the Council to enforce the Order may also provide an additional resource to support the enforcement of this new and other provisions within the Order. On this basis and given the strong support from the business community for the amplified music provision, it is recommended that the Council includes this provision in the Order.

### 3. Recommendations

That Cabinet:

- 3.1. accepts the position as set out in the report and agrees that the Council extends, with variations, the Shrewsbury Town Centre Public Spaces Protection Order (No.1) 2017, as set out in **Appendix A (“the Order”)**, with an effective commencement date of 1 August 2023.
- 3.2. for the purpose of discharging the Order instructs the Executive Director: Place to publish and cause to be erected notices in accordance with Regulations made under the Anti-Social Behaviour, Crime and Policing Act 2014.
- 3.3. delegates authority to the Executive Director: Place to engage with West Mercia Police and to agree a new Memorandum of Understanding to specify enforcement responsibilities and any other requirements under the Order (as extended) and, where necessary, to amend or create any further Memoranda of Understanding at any time during the period that the Order (as extended) is in force.
- 3.4. delegates authority to the Executive Director: Place and any other Executive Director holding responsibility for functions relevant to the Order (as extended) to engage with any other organisation, not being part of Shropshire Council, where officers of that organisation have been authorised by Shropshire Council to undertake enforcement responsibilities under the Order (as extended), and to define those enforcement responsibilities and any other requirements within an agreed Memorandum of Understanding and, where necessary, to amend or create any further Memoranda of Understanding at any time during the period that the Order (as extended) is in force.

## Report

### 4. Risk Assessment and Opportunities Appraisal

- 4.1. The introduction of the Order was intended to help improve the commercial nature of Shrewsbury town centre (including the evening and night-time economy and visitor experience), whilst ensuring that public spaces are enjoyed by the majority and not spoiled by the actions of the minority, and this remains at the heart of the purpose of the revised Order.
- 4.2. Under the Anti-social Behaviour, Crime and Policing Act 2014 (‘the Act’), where a public spaces protection order is introduced or where a variation is made, a legal challenge over the validity of such an order is possible for a period of up to six weeks. The revised Order will, therefore, be subject to a six-week period in which it may be challenged. When the original Order was introduced in 2017 no such challenge was made.

- 4.3. There have been no formal complaints or representations received by the Council in relation to the implementation or use of the current Order whilst it has been in operation.
- 4.4. In line with the requirements of the Act, a public consultation seeking views from statutory consultees and the public on the proposals to extend and vary the Order was undertaken between 3 April 2023 and 14 May 2023. Included with the consultation papers was a copy of the current Order and the proposed variations.
- 4.5. West Mercia Police and the Office of the Police and Crime Commissioner (OPCC), as statutory consultees, were directly notified of the consultation, together with a wide range of other bodies, including known landowners, community representatives and, through the Shrewsbury Business Improvement District (BID), many local businesses were also encouraged to respond.
- 4.6. The response to the consultation gave a very clear indication that the Order ought to continue and there was overall support to include all the proposed variations. The comments received during the consultation are set out along with the Council's comments at **Appendix B**.
- 4.7. In some cases where the responses provided have not been possible to fully capture within **Appendix B** they are provided separately as follows
  - i. Response from Prosecure Ltd at **Appendix C**.
  - ii. Response from Shropshire Council Environmental Protection at **Appendix D**.
  - iii. Response from Resident (no1) at **Appendix E**.
  - iv. Response from Shrewsbury Business Improvement District at **Appendix F**.
  - v. Response from Resident (no2) at **Appendix G**.
- 4.8. In addition West Mercia Police's response to the consultation can be viewed at **Appendix H**.
- 4.9. The Order has been in operation since 2017 and, in accordance with the Council's Better Regulation and Enforcement Policy, it has primarily been used to address low level anti-social behaviour with the primary aim being to modify or change the behaviour of individuals using the lowest level of enforcement intervention. The wording of the Order has been designed to enable authorised officers to intervene in circumstances in an attempt to de-escalate situations and resolve matters, as opposed to criminalising individuals; this remains the case with the proposed variations. A summary setting out how the current Order has been utilised over the period 1 April 2020 to 31 March 2023 is included at **Appendix I**.
- 4.10. Following the introduction of the original Order, town centre incident data (01/04/2020 – 31/03/2023) recorded specifically by Team Shrewsbury partners has continued to be collated and categorised. There are currently 17 different categories to which incidents/reports/behaviours are assigned and this data is shared and reviewed regularly at Team Shrewsbury meetings. In addition, supporting data has been provided by the Police covering 10 incident categories (01/04/2020 – 31/03/2023), OIS data sets (05/02/2022 – 27/02/2023) and information collated via officer observations linked to an ASB Risk Management Plan for the town centre (18/08/2022 – 04/04/2023). Data from Shropshire Council with respect to complaints concerning busking has also been provided. This data does demonstrate a continuing need for both the existing prohibitions and also the

inclusion of the proposed new provisions. A copy of the PSPO evaluation report is included at **Appendix J**.

- 4.11. Prior to the Order being implemented in 2017, and also when the Order was extended in 2020, Equality and Social Inclusion Impact Assessments ('ESIIA') were undertaken in order to assess likely impacts for people within the nine Protected Characteristic groupings as set out in the Equality Act 2010. Consideration was also given to impacts with regard to social inclusion, which is the wider additional category used to help the Council go beyond the equality legislation and to consider impacts for individuals and households with regard to the circumstances in which they may find themselves across their life stages. This category of social inclusion enables consideration of impacts for individuals that may be considered vulnerable, including rough sleepers. Both ESIIAs followed and drew upon formal consultations and as such reflected comments from statutory consultees, other interested parties and from the community. This demonstrates ongoing engagement and enabled a view to be taken at both stocktake moments that the overall equality impact would be low positive across groupings.
- 4.12. An additional Equality, Social Inclusion and Health Impact Assessment ('ESHIA') has now been prepared reflecting the latest consultation and associated data. The Order including the proposed amendments is intended to tackle low level anti-social behaviour where the behaviour is having, or likely to have, a detrimental effect on the quality of life of those in the locality; be persistent or continuing in nature; and be unreasonable. The way that the Order has been used since inception and will continue to be used is as a mechanism to prevent lower-level anti-social behaviour and minimise its impact. As such, it again indicates a low positive impact for groupings in the community. The ESHIA can be viewed at **Appendix K**.
- 4.13. Whilst the Order has the potential to adversely impact on children and vulnerable adults, it is intended to address unacceptable behaviours, which are considered to be anti-social in nature, which it is not unreasonable to address through a revised Order in accordance with statutory provisions. The behaviour of young persons under the age of 18 has been dealt with informally under the original Order, with appropriate contact between the Police and with parents and carers; this position is not expected to change.
- 4.14. An action to mitigate any perceived negative impact of the measures on vulnerable people, including rough sleepers, will be to advise both directly and through groups such as Team Shrewsbury that the Order, including the proposed amendments, is not a mechanism that sets out to punish poverty related issues; it sets out to punish unacceptable behaviours caused by individuals acting inappropriately, irrespective of status or wealth and applies equally to matters also commonly associated with the evening and night-time economy.
- 4.15. There are measures in place to help vulnerable people who are homeless, rough sleeping, or at risk of rough sleeping across the county. This includes support from a variety of agencies, which is currently provided through the RESET multi-agency service, which provides drug and alcohol treatment support. The RESET team provides holistic support including domestic abuse support, adult social care, housing support and mental health treatment. The partners involved are the Council, With You at Shropshire Recovery Partnership, Midlands Partnership

Foundation Trust, Shropshire Domestic Abuse Service, Shrewsbury Ark and Intuitive Thinking Skills. The Police and the wider medical profession also provide support. Further, the Council and Team Shrewsbury promote the Alternative Giving Scheme which operates within the town centre. This allows people to provide donations which are specifically used to assist homeless people.

- 4.16. Cabinet properly had regard to the rights of freedom of expression and freedom of assembly set out in the European Convention on Human Rights and the Human Rights Act 1998 during the process that led to the implementation and subsequent extension of the Order. The fact that no human rights challenges or complaints have been lodged since the introduction of the Order gives a reasonable indication that the previous decisions to implement the Order and the recommendations in this report to continue with the Order is unlikely to be at variance with the Human Rights Act 1998 and is also unlikely to result in any adverse Human Rights Act implications.
- 4.17. The anticipated positive environmental impact associated with the original Order through a reduction in urinating/defecating in the street and the public not leaving their personal belongings in the town centre will be maintained. In addition, providing enforcement arrangements are agreed and resourced, the variation to include a measure to reduce nuisance from amplified sound will also provide a positive impact for local residents and town centre business owners given the experiences shared by some in response to the consultation. Taken together, these are positive impacts in relation to the health and well-being of all residents, visitors and business owners.
- 4.18. The impacts of reducing anti-social behaviour will have a low positive impact on the well-being of those individuals who are blighted by anti-social behaviour and who may suffer frequently from such behaviours. Both existing and proposed amendments will help the authorities to both raise awareness and address anti-social behaviour.

## 5. Financial Implications

- 5.1. An identified breach of the Order is a criminal offence and a person guilty of an offence is liable on summary conviction to a fine not exceeding Level 3 (maximum £1,000). However, the legislation enables such offences to be dealt with, where appropriate, by way of a Fixed Penalty Notice (FPN), which, if paid, would discharge an individual's liability to conviction for the offence. The amount of the FPN was set by Cabinet at £75, reduced to £50 if paid within 10 days. There are no proposals to amend the financial level of the FPN if the Order is extended/varied.
- 5.2. Whilst the use of FPNs is being utilised by the Council in appropriate cases, none of those issued to date have been paid and, as a result, the Council has had to consider and, where appropriate, resort to instituting legal proceedings. Any costs, including officer time, associated with investigating breaches and bringing legal proceedings in the criminal courts have been met from within the Business and Consumer Protection Service operational budget. This adversely impacts the delivery of Trading Standards related mandatory statutory duties as the officers who take on these cases are based in the Trading Standards Team. Any costs awarded in court proceedings invariably do not cover the Council's expenditure

and even when awarded are rarely received due to the personal circumstances of the individuals who are facing prosecution.

- 5.3. It has also been recognised that enforcement of the Order is currently difficult, with financial and resource pressures on Shropshire Council, West Mercia Police and other partners and, whilst a wider consideration as to who may be authorised by the Council to enforce the provisions has also been proposed, there is currently no agreement to extend these powers to any particular persons. The inclusion of this power will be utilised when appropriate and when the Council is in a position to provide sufficient assurance that it can resource any anticipated outcomes from an increase in the number of enforcement actions. This will include back-office administrative support, additional officer time to review criminal reports and accompanying evidence, administering appropriate sanctions, undertaking investigations for cases requiring formal action and finally costs associated with bringing criminal legal proceedings.
- 5.4. The proposal to vary the current Order will mean that all the current street signs advertising the presence of the Order will need to be replaced to reflect the new provisions. Funding will be sought from external sources including Team Shrewsbury partners and the OPCC; however, there is a risk that this will need to be funded from the Business and Consumer Protection Service budget, which will impact the delivery of other mandatory statutory duties.
- 5.5. The proposal to vary the current Order will also mean that all the existing crime reporting books will need to be replaced to reflect the new provisions. The books are used by authorised officers to record enforcement actions undertaken and to issue, to those persons against whom the action has been undertaken, a notice outlining what has been required of them or what offence they are to be reported for. Whilst funding for new books will be discussed at Team Shrewsbury, there has been no commitment at this time and, hence, it remains highly likely that this will again need to be funded from the Business and Consumer Protection Service budget.
- 5.6. The current estimate of the costs referred to in paragraphs 5.4 and 5.5 above is £1,000.

## 6. Climate Change Appraisal

6.1. It is acknowledged that the Order is expected to have a 'no effect' outcome on the climate change impacts listed below:

- energy and fuel consumption (buildings and/or travel)
- renewable energy generation;
- carbon offsetting or mitigation; and
- climate change adaptation.

## 7. Background

7.1. The Anti-social Behaviour, Crime and Policing Act 2014 ('the Act') introduced Public Spaces Protection Orders ('Orders'), which are intended to provide the means of preventing individuals or groups committing anti-social behaviour in a

public space. Section 59 of the Act sets out the test which must be satisfied before a local authority makes an Order... “where the behaviour is having, or likely to have, a detrimental effect on the quality of life of those in the locality; be persistent or continuing in nature; and be unreasonable”.

- 7.2. The power to make an Order rests with local authorities, in consultation with the police and other relevant bodies who may be affected. A local authority can make an Order in respect of any public space within its administrative boundary. The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
- 7.3. An Order can be in force for any period up to a maximum of three years after which time the local authority must consider whether to extend the Order.
- 7.4. A challenge to the validity of the Order or aspects of it can be lodged by anyone who lives in, or regularly works in or visits the area in the High Court within six weeks of issue. Further challenge can only be made when an Order is varied by the local authority. Given it is proposed to amend/vary the current Order, the opportunity to challenge the validity of the amended Order will be available for up to six weeks after the proposed amended Order is made.
- 7.5. An order may be applied wherever there is material evidence of anti-social behaviour, for example, in reports to the police, local authorities or partner agencies.
- 7.6. The restrictions and requirements included in an order may be comprehensive or targeted on specific behaviours by particular groups and/or at specified times.
- 7.7. Orders can be enforced by a police officer, a police community support officer, authorised council officers and employees of other delegated organisations. It is proposed that the power for Shropshire Council to authorise any other person be included as a variation, although there is no plan to utilise this provision until such time as resources are identified to address any increase in enforcement. This is linked with corporate work that is being undertaken to explore how funding can be obtained to ensure the Council is meeting its statutory responsibilities around responding to anti-social behaviour issues more widely.
- 7.8. A breach of the Order can be dealt with through the issuing of a Fixed Penalty Notice of up to £100, or a Level 3 fine (max £1,000) on prosecution. When the Order was first introduced the level of FPN was set at £75. There are no changes proposed to the current level of FPN.
- 7.9. In establishing an Order, appropriate signage must be displayed in accordance with the requirements of the Act on entry points to the public area and within the said area. Given variations are being proposed to the Order, new signage will be required.
- 7.10. The area covered by the Order, known as the ‘restricted area’, is identified within the Order by a map, which covers the town centre area within the river loop and a part of Mountfields, which includes Frankwell car park and the adjacent playing fields. There is no proposed change to the restricted area.



- 7.11. The first prohibition relates to urinating and defecating in the public area. Despite public belief prior to the introduction of the Order, neither would amount to a criminal offence and the police in dealing with this behaviour had to rely on gathering evidence to consider an indirect offence, e.g. 'exposure', which would often prove too difficult to pursue.
- 7.12. The second prohibition bans the leaving of personal belongings without reasonable excuse. Inadvertently or accidentally leaving behind personal items would not breach the Order as this could be considered a reasonable excuse. As a result, this prohibition is clearly aimed at those individuals intentionally leaving their possessions in the public area. Leaving behind personal belongings, given the national security risk, is simply unacceptable. Further, there is strong evidence of discarded drug paraphernalia in the town centre which provides an indication as to the possible or likely contents of the possessions being left behind potentially exposing members of the public in particular children to unnecessary risk.
- 7.13. The third prohibition has an impact on behaviours linked to the consumption of alcohol in the public area. Whilst drinking is currently permitted and will remain so, the prohibition allows intervention by an authorised officer where a person's behaviour as a result of continued alcohol consumption is causing nuisance, alarm, harassment or distress to any other person or public disorder. Only if that person fails to stop drinking and/or hand over the alcohol does a criminal breach occur.
- 7.14. The fourth prohibition is a variation to the original Order. This will provide authorised officers with the ability to engage with individuals who are sitting or lying on any footpath or pedestrian area or in any fire escape, stairway or other entrance or exit to any premises and are causing nuisance, alarm, harassment or distress to any other person or public disorder to move from that area. Only where a person fails to respond positively to an officer's request to move would a criminal breach occur. The Police are in support of this provision. It is aimed at helping to reduce aggressive begging and the menacing of passing public. It will also help town centre businesses gain unimpeded access to their premises, which is a concern that has been raised in a number of responses received during the consultation from town centre businesses. The majority of responses received to the public consultation support the inclusion of this new provision.
- 7.15. The fifth prohibition is also a variation to the original Order. This will provide authorised officers with the ability to engage and require individuals, whilst within a public toilet and where they are considered to be causing nuisance, alarm, harassment or distress to any other person or public disorder, to leave the toilet. Reports of anti-social behaviour by individuals using public toilets including drug related activity have been recorded by Team Shrewsbury. The majority of responses received to the public consultation support the inclusion of this new provision.
- 7.16. The sixth prohibition is also a variation to the original Order. This will provide authorised officers with the ability to require a person to stop using a device intended to amplify sound where that person is causing or likely to cause nuisance, alarm, harassment or distress. This is not an outright ban on sound amplification, but it will require a more considered use of such a device as well as greater concerns for those within the vicinity. As with the other provisions of the amended Order a criminal breach would only occur if that person failed to stop

using the device following a request by an authorised officer. The majority of responses received to the public consultation support the inclusion of this new prohibition.

- 7.17. The seventh and final prohibition again provides an indirect power for officers to intervene where a person's behaviour is causing nuisance, alarm, harassment or distress to any other person. Authorised officers can require a person to stop the behaviour and, if necessary, to leave and not to return within a 48-hour period. Only if that person refuses, without good reason, to leave the area would that person commit an offence. This prohibition provides flexibility and a degree of discretion to the enforcement process to enable the immediate cessation of the offending behaviour without the need to resort to legal action. Removal from the area for a 48-hour period provides a practical and immediate penalty and an incentive to improve future behaviour. It allows for a broad range of anti-social behaviour to be stopped without necessarily criminalising individuals.
- 7.18. The intention behind the Order continues to be to provide a mechanism to allow the police and authorised officers to address behaviours that are causing concern without the Order targeting any particular group of the community and in particular those that may be considered vulnerable or in need of help. The further extension and variation/amendment of the Order does not alter the fact that this Order is about targeting individual/s whose behaviour is causing community nuisance, alarm, harassment or distress and which is built into the specific wording of the Order.

## 8. Additional Information

- 8.1. Data recorded by Team Shrewsbury, Shropshire Council and the Police have been collated to demonstrate the continuing need for the original provisions of the Order but also to evidence the need for the additional provisions. An evaluation report has been prepared looking at the data for the last three financial years from period of 01/04/2020 – 31/03/2023 and can be seen at **Appendix J**.
- 8.2. In addition, a summary of the actions taken under the provisions of the Order for the period of 01/04/2020 – 31/03/2023 is set out at **Appendix I**. In line with the intentions behind the Order significant use (84 occasions) has been made of the enabling provisions of the Order by the Police to address and stop specific anti-social behaviour, with 35 breaches of the Order identified and reported to the Council for further consideration in line with the Council's Better Regulation and Enforcement Policy.
- 8.3. This data provides the evidence for the continued need for an order to cover the town centre and more specifically all the provisions to be included within the proposed revised Order. This data is also supported by the responses from the public consultation (All responses are included in **Appendices C to H**).
- 8.4. The use of the Order was greatly reduced during the Covid-19 pandemic; however, enforcement recommenced during 2021/2022 (20 occasions) and increased during 2022/2023 (96 occasions) with the trend for this financial year expected to mirror 2022/2023.

## 9. Conclusions

- 9.1. The Order is a practical tool that enhances the regulatory framework to address low level anti-social behaviour in Shrewsbury town centre and there is evidence to support its ongoing existence for the next three years.

### **List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)**

[Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers. Statutory guidance for frontline professionals \(revised March 2023\)](#)

[Shropshire Council's Better Regulation and Enforcement Policy \(September 2018\)](#)

[Cabinet report and appendices relating to the introduction of the Order on 21 June 2017 – Agenda Item 20](#)

[Cabinet report and appendices relating to the review of the Order on 25 July 2018 – Agenda Item 38](#)

[Cabinet report and appendices relating to the proposed extension of the Order on 15 June 2020 – Agenda Item 99](#)

**Local Member:** Cllr Julian Dean – Porthill Division  
Cllr Nat Green – Quarry and Coton Hill Division

### **Appendices**

Appendix A - Shrewsbury Town Centre Public Spaces Protection Order (No.1) 2007  
Appendix B - Consultation responses  
Appendix C – Prosecure 2000 Ltd response to consultation  
Appendix D - Environmental Protection response to consultation  
Appendix E - Resident (No1) response to consultation (name and address redacted)  
Appendix F - BID response to consultation  
Appendix G - Resident (No2) response to consultation  
Appendix H - West Mercia Police response to consultation  
Appendix I - PSPO action summary 1 April 2020 to 31 March 2023  
Appendix J - PSPO Evaluation Report  
Appendix K - ESHIA - PSPO 2023