

<b>DECISION-MAKER:</b>	<b>Cabinet</b>
<b>SUBJECT:</b>	<b>MOUNT PLEASANT AND NORTHUMBERLAND ROAD PUBLIC SPACES PROTECTION ORDERS (PSPO)</b>
<b>DATE OF DECISION:</b>	<b>27 AUGUST 2024</b>
<b>REPORT OF:</b>	<b>COUNCILLOR C LAMBERT CABINET MEMBER FOR COMMUNITIES AND SAFER CITY</b>

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<b>STATEMENT OF CONFIDENTIALITY</b>
NOT APPLICABLE
<b>BRIEF SUMMARY</b>
<p>Serious crime and anti-social behaviour is a long-standing issue for the both the Mount Pleasant footpath and the Northumberland Road footpath and play area. (The location/extent of the area's concerned can be found Appendix 1 &amp; 2). The issues have been confirmed by the Police, local residents, businesses and the Council which has continued to deal with the consequences of that crime. The two local schools have highlighted that these footpaths present a serious safeguarding issue for the two schools and an ongoing risk to the local residents.</p> <p>Following previous consultation and discussion with local stakeholders (including the affected neighbouring schools) in 2020, several legal routes to close the public rights of way were explored (orders under section 116 or section 118 of the Highways Act 1980). After external legal advice and footfall surveys, neither of the options under the Highways Act were deemed appropriate and a Public Space Protection Order (PSPO) was then considered. Rather than having the legal effect of withdrawing a public right of way the proposed PSPO instead would prohibit public access to the prescribed areas (both footpaths and the Northumberland Road play-area were being considered).</p> <p>An online public consultation was undertaken on the proposal to implement the Mount Pleasant and Northumberland Road PSPOs, concluding on the 21<sup>st</sup> January 2024 with feed-back from 300 respondents.</p> <p>65% of the respondents were in favour of the Mount Pleasant PSPO. However, 71% of the respondents were against the Northumberland Road PSPO (71% negative).</p>

The respondents considered that the loss of the green space at the Northumberland Road play area (known as 'the Veny') would have a significant impact and the feedback from the consultation advocated keeping the Veny open and usable by the community.

Following the outcome of the consultation this report recommends the implementation of a PSPO for the Mount Pleasant footpath only.

**RECOMMENDATIONS:**

	(i)	Following consultation and consideration of the representations made, to proceed with the implementation of the proposed Public Spaces Protection order for the Mount Pleasant footpath (between Mount Pleasant Road and Imperial Road - S014 0EB - Unique Street Reference Number: (USRN) 37012003)
	(ii)	Following consultation and consideration of the representations made, to not proceed with the implementation of the proposed Public Space Protection order for Northumberland Road footpath and the Veny play-area (land at Northumberland Road, side of Maytree Infant and Nursery School, Northam - SO14 0EL - Northumberland Road footpath. Unique Street Ref No: 37011868)

**REASONS FOR REPORT RECOMMENDATIONS**

1.	The implementation of a PSPO for the Mount Pleasant footpath will have the effect of closing the area shown in Appendix 1 to the public, making it a criminal offence for anyone not authorised to enter. To prevent access, the footpath will be fenced off following the PSPO approval with locked gated access to allow for ongoing maintenance obligations. The PSPO can be in effect for up to 3 years and will have the effect of denying access to a space to prevent criminal offences and safeguard the public and the adjacent school children, families and staff.
2	An online public consultation on the draft PSPO took place alongside a letter drop to neighbouring businesses and stakeholders in compliance with the legal requirements for such consultation as set out in the 'Legal Implications' section of this report. The result of the consultation concluded that 65% of the respondents positively supported the Mount Pleasant PSPO. This supports the Police Witness Statement (included as Appendix 4) which concluded 'closing the alleyway would be beneficial to the local area'.
3.	The proposed PSPO for the Northumberland Road footpath and play-area received little public support (71% negative). From the consultation feedback there is a strong public interest in keeping this green space open to the community. Options such as a focus on improving the condition of the area and exploring 'friends of' groups to support have been suggested as approaches for this area.

**ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

4.	<p><b><u>Option 1 – Do Nothing</u></b> – By not implementing the Public Spaces Protection Order for Mount Pleasant footpath and leaving the footpath open for use, this allows the continuation of the ongoing risks to the public (and particularly the neighbouring school) of being victims of serious criminal offences and risks to public health through anti-social behaviours together with the costs associated with dealing with the result of this behaviour.</p>
5	<p><b><u>Option 2 - CCTV</u></b> . The installation of CCTV was considered for both footpaths. However, upon further investigation due to the length of the Mount Pleasant footpath and the tree coverage the CCTV view was very restricted. There was also a concern identified that CCTV had not proved to be a deterrent to crime and that there is also the risk that a stand-alone CCTV system could be the subject of vandalism.</p>
6.	<p><b><u>Option 3 Relocate the Northumberland Road Play Area</u></b> – The previous consultation that focused on the Northumberland Road play-area (the Veny) in 2020 consultation considered the possibility of relocating the play-area to Maytree Infant and Nursery School. Without being able to close the public footpath that separates the school and the Veny this option is not possible as there is insufficient space on the site.</p> <p>The 2020 consultation also explored numerous ways of keeping the Veny play-area open with different organisations maintaining and managing access, but the inherent risks of open/closing the area was considered a significant risk given the criminal activities that had been reported (please see the Alleyway Offences List at Appendix 5 for the nature and seriousness of these crimes).</p>
7.	<p><b><u>Option 4 – Section 116 and 118 of the Highways Act 1980.</u></b> Other legal processes explored included the orders under section 116 or section 118 of the Highways Act 1980. After external legal advice and footfall surveys, neither of the options under the Highways Act were deemed appropriate and a Public Space Protection Order (PSPO) was then considered.</p>
<p><b>DETAIL (Including consultation carried out)</b></p>	
8.	<p>The incidences of criminal and anti-social behaviours in the footpaths bordering Mount Pleasant Junior School and Maytree Infant and Nursery School have been a longstanding issue that has been identified by residents and the Police for years. These problems were raised by the adjacent schools respective Head Teachers following various incidents that directly impacted the schools and raised serious safe-guarding concerns. (The location/extent of the area's covered by the PSPO's (proposed in the public consultation) can be found on the Draft PSPO's in Appendix 1 &amp; 2).</p>
9.	<p>Southampton City Council began looking into these issues and undertook an Options Appraisal in November 2018 which looked to improve safe-guarding measures at Mount Pleasant Junior School. The construction works took place at Mount Pleasant Junior School with the CCTV coverage being upgraded in November 2020 and a new perimeter fence and gated access systems being installed from May 2021 onwards.</p>
10.	<p>Parallel to the construction works public consultation was held in March 2020 on proposals to transfer the Northumberland Road play-area (the Veny) to Maytree Infant and Nursery School. This proposal was met with moderate public support (62% majority in favour of the proposal) following a public drop-in event held at the school. The driver behind this proposal was to</p>

	address the criminal and anti-social behaviour in the area. However, the public footpath running between the school and the Veny play-area is a public right of way and would need to be formally and legally closed.
11.	The same situation with serious criminal and anti-social behaviours was also still occurring at the footpath adjacent to Mount Pleasant Junior School and so the Council explored numerous options to address this. The overarching tree coverage and the length of the footpath meant that CCTV would be severely restricted and of limited use. At the Northumberland Road footpath behind Maytree Infant and Nursery School and play-area it was concluded that the CCTV would be the subject of vandalism. Some criminal activities were noted in full sight of the school and the Police were aware of the situation via their Operation Hem (and as such identification via CCTV would not positively impact on safeguarding).
12.	Gating the two areas was considered (and discussed with the public at length during the March 2020 drop in event) but responsibilities for open/shutting were considered a high risk given the ongoing criminal activities (and noting the alleyway offences lists the Police provided).
13.	After discussion with the Councils Highways Officers the consideration to close the footpaths was then followed with a proposed application to stop-up a footpath under section 116 of the Highways Act 1980. Upon receiving objections to the order (from the Ramblers Society) further legal advice was sought and the guidance was to undertake an application for an Extinguishment Order, under section 118 of the Highways Act 1980. A section 118 order is a stopping-up order based on the use of the footpath. A footfall survey was undertaken by Balfour Beatty but the conclusion of these surveys was that based on the use it would not be possible to justify a section 118 Extinguishment Order.
14.	The last route considered for closing access to the two footpaths was a Public Spaces Protection Order (PSPO). In discussion with the Councils City Services Team, Legal officers and the Police, this was the proposal put forward for consideration. The section 116 and 118 orders were aimed at closing the public right of way via the Mount Pleasant and Northumberland Road footpaths (which are public highways). The PSPO for Northumberland Road proposed to incorporate the Veny play-area as prohibiting access to the footpath would indirectly prevent access to the play-area too. The older 2020 consultation is now considered out of date and was carried out on the basis of different proposals.
15.	These draft PSPOs went through consideration both internally within the Council and with stakeholders before being put out to an online public consultation, held between 11 Dec 23 – 21 Jan 24. The public could review the PSPO materials on the Council's website and were invited to complete an online consultation questionnaire where they were able to have their say on the proposals.
16.	Relevant stakeholders and businesses were also contacted via letter, and residents were also engaged through the Stronger Communities Team networks, through School networks, promoted online via the Council website and social media channels (including targeted NextDoor posts), and promoted via Council e-bulletins.
17.	The results of the consultation were combined into the Consultation Report and the information has been included at Appendix 3. The results indicated favourable public support (65% positive) for the Mount Pleasant footpath PSPO and negative public support (71%) for the Northumberland Road and

	<p>play-area PSPO. This report therefore recommends the implementation of a PSPO for the Mount Pleasant footpath. The Northumberland Road footpath and play-area is expected to be subject to further discussion and alternatives explored rather than a full closure at this time, such as including improving the condition of the area and engaging with local groups such as ‘friends of the adventure playground’.</p>
<p><b>RESOURCE IMPLICATIONS</b></p>	
<p><b><u>Capital/Revenue</u></b></p>	
18.	<p>The estimated cost of the works associated with fencing off the footpath is up to £25,000. Budget for the scheme has been included in the Children’s &amp; Learning capital programme for 2024/25 funded from the Schools Condition Allocation Grant.</p> <p>It is anticipated the work would be scheduled to be completed within 3 months of a PSPO being made.</p>
<p><b><u>Property/Other</u></b></p>	
19.	<p>The Mount Pleasant footpath is owned by the Council and within the Highways portfolio and is a Public Right of Way. The footpath runs between Mount Pleasant Rd and Imperial Rd. A map of the area covered by the prospective PSPO can be found in Draft Mount Pleasant PSPO in Appendix 1.</p> <p>The Northumberland Rd footpath is also owned by the Council and within the Highways portfolio as an adopted Highway and is also a Public Right of Way. The Northumberland Rd footpath runs between the Maytree Infant and Nursery School and the Northumberland Rd Play-area (the Veny).</p> <p>The Northumberland Rd Play Area (known as the Veny) is also owned by the Council and within the Communities &amp; Leisure portfolio, but this is not a Public Right of Way. A map of the footpath and Play-area covered by the prospective PSPO can be found in Draft Northumberland Rd PSPO in Appendix 2.</p>
20.	<p>The areas affected by the prospective PSPO will need to be fenced off to prevent unlawful access if the PSPO is implemented. There will be a requirement for gates to allow for the ongoing maintenance of the land (tree trimming/litter clearance) and the enclosed area including the newly installed fencing/gate would remain a Council maintenance obligation.</p>
21.	<p>There will also be costs associated with the management of the area covered by the PSPO and the enforcement of the PSPO (via City Welfare Wardens/Police attendance to deal with reported breaches of the PSPOs). This would include the officer time and legal costs should any breaches be taken to Court.</p>
<p><b>LEGAL IMPLICATIONS</b></p>	
<p><b><u>Statutory power to undertake proposals in the report:</u></b></p>	
22.	<p>Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 gives the Council the power to make a PSPO if it is satisfied on reasonable grounds that various conditions are met. In this case, the conditions that are considered to be relevant are that:</p>

	<p>(a) activities are carried on in a public place within the Council's area that have had a detrimental effect on the quality of life of those in the locality; and</p> <p>(b) the effect of the activities is that they are of a persistent or continuing nature, is such as to make the activities unreasonable and justifies the restrictions imposed by the PSPO.</p>
23.	A PSPO must identify a restricted area (in this case the footpaths themselves) and impose prohibitions or requirements or both. In this case, the effect of the PSPO is to prohibit access to the area.
24.	Prohibitions imposed under a PSPO must be reasonable in order to either prevent the detrimental effect identified in (a) above from continuing, occurring or recurring, or to reduce that detrimental effect or to reduce the risk of its continuance occurrence or recurrence.
25.	A prohibition in a PSPO may be framed so as to apply to all persons at all times and in all circumstances as in this case.
26.	Failure to comply with a PSPO without reasonable excuse is a criminal offence punishable on conviction by a level three fine (currently £1,000). An offence can also be dealt with by way of a fixed penalty notice. Persons who breach a PSPO can be prosecuted by the Police or by the local authority. Fixed penalty notices likewise can be issued by a constable or by a person authorised by the local authority. Payment of fixed penalty notices is made to the local authority.
27.	A PSPO lasts for a maximum of three years but may be renewed after that period following a further consultation exercise.
<b><u>Other Legal Implications:</u></b>	
28.	<p>Both of the footpaths considered in this report are public highway. As the effect of the PSPOs would be to restrict access over those highways, the Council must first consider:</p> <p>(a) the likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway;</p> <p>(b) the likely effect of making the order on other persons in the locality;</p> <p>(c) in a case where the highway constitutes a through route, the availability of a reasonably convenient alternative route.</p>
	<p>The Council must also take what are called in the Act the "prior consultation steps" in relation to the PSPO, which means that it must</p> <p>(a) notify potentially affected persons of the proposed order,</p> <p>(b) inform those persons how they can see a copy of the proposed order,</p> <p>(c) notify those persons of the period within which they may make representations about the proposed order, and</p> <p>(d) consider any representations made.</p>

	“Potentially affected persons” means occupiers of premises adjacent to or adjoining the highway, and any other persons in the locality who are likely to be affected by the proposed order.
29.	The PSPOs will not affect the status of the footpaths as public highway. The Act permits the Council to erect barriers to prevent access to the footpaths. Alternative routes are available as indicated by the ESIA’s (see Appendix 6 & 7) which consider the Councils obligations to s149 Equality Act 2010.
<b>RISK MANAGEMENT IMPLICATIONS</b>	
30.	<p>The making of the recommended PSPO for Mount Pleasant will reduce risk to the public from serious criminal offences in that area. The criminal activities may migrate to other areas rather than cease and discussion with the local Police, Council departments and partner organisations will be required to consider the best measures for mitigating the displacement of these activities and the impacts into potentially new areas of the city. This will be headed by the Stronger Communities Team within the Council . Co-ordination with the Police will be critical to ensure the continuation of the ongoing Operation Hem.</p> <p>The areas covered by the PSPO will also retain the risks associated with any unlawful entry and will require appropriate monitoring and management of these vacant spaces to avoid different offences occurring.</p>
31.	The Northumberland Road footpath and play-area is expected to be subject to further discussion and alternatives explored rather than a full closure at this time, including improving the condition of the area and engaging with local groups such as ‘friends of the adventure playground’.
32.	A long-term strategy for these areas would need to be developed separately in conjunction with further community engagement. The long-term strategy once the PSPOs are in place could include submission of a planning application to change the use of the footpath and enable the stopping-up of the current public highway. One option is to bring the areas into sole use by the adjacent schools, however there would also be other options available.
33.	It is worth noting that in the event that the Mount Pleasant footpath PSPO is implemented there may be displacement of the criminal and anti-social behaviours to other areas. If the Northumberland Rd & Play-area PSPO is not taken forward, it is likely that this is the closest and easiest place for that activity to migrate too, with the potential for increasing the risk in that area.
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
34	Complies with the Southampton Safe City Strategy, the first priority of the strategy being “Keeping people safe from harm”.

<b>KEY DECISION?</b>	<b>No</b>
<b>WARDS/COMMUNITIES AFFECTED:</b>	Bevois Ward
<u>SUPPORTING DOCUMENTATION</u>	

<b>Appendices</b>	
1.	Mount Pleasant footpath draft PSPO
2.	Northumberland Road footpath and play-area draft PSPO
3.	Maytree & Mount Pleasant footpath and park Public Spaces Protection Order Consultation Report
4.	Police Witness Statement – 10/03/2020
5.	Police Supplied – Alleyway Offences List
6.	Mount Pleasant footpath ESIA
7.	Northumberland Road footpath and play-area ESIA

#### **Documents In Members' Rooms**

1.	
2.	

#### **Equality Impact Assessment**

<b>Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.</b>	<b>Yes/No</b>
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#### **Data Protection Impact Assessment**

<b>Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.</b>	<b>Yes/No</b>
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#### **Other Background Documents**

**Other Background documents available for inspection at:**

<b>Title of Background Paper(s)</b>	<b>Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)</b>
1.	
2.	