

# Brighton & Hove City Council

## Tourism, Equalities, Communities and Culture Committee

## Agenda Item 9A

**Subject:** Pool Passage Public Space Protection Order Consultation

**Date of meeting:** 16<sup>th</sup> June 2022

**Report of:** Executive Director Housing, Neighbourhoods and Communities

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**Ward(s) affected:** Regency

**For general release**

### **1. Purpose of the report and policy context**

1.1 The purpose of this report is to describe concerns around criminal and antisocial behaviour taking place in and around the Pool Passage twitten which runs between Old Steine with Pool Valley, and to consider the value of a Public Space Protection Order authorising a gating scheme placing access restrictions on the twitten as a remedy to these concerns. (For site plan see appendix 1)

### **2. Recommendations**

2.1 That the committee approve a statutory public consultation on the draft Pool Passage Public Space Protection Order (See appendix 1)

### **3. Context and background information.**

3.1 Public Spaces Protection Orders (PSPOs) are intended to deal with a particular nuisance or problem in an area that is detrimental to the local community's quality of life by imposing conditions on the use of that area and may include highway restrictions to limit access to some areas which may be affected by crime and antisocial behaviour. As Pool Passage has a public highway designation a PSPO would be required to implement access restrictions at this location.

3.2 Councils can make a PSPO after consultation with the police, the Police and Crime Commissioner, and other relevant bodies and communities. The following criteria must be met in relation to the behaviour being restricted

- be having a detrimental effect on the quality of life of those in the locality;
- be persistent or continuous;
- be unreasonable.
- justifies the restrictions imposed.

**3.3** Where a PSPO is used to restrict a public right of way, the council must consider several things.

- Can they restrict access? At some locations rights of way may not be restricted due to their strategic value.
- What impact will the restriction have? For instance, is it a primary means of access between two places and is there a reasonably convenient alternative route?
- How would a proposed restriction impact upon access to residential property? A PSPO may not be used where access to residential property becomes wholly restricted by the scheme, regardless of the wishes of residents.
- Would a restriction have an impact from an equalities perspective on those with protected characteristics – in particular people with disabilities.

There are also further consultation requirements where access is to be restricted to a public right of way. This includes notifying potentially affected persons of the possible restrictions. This could include people who regularly use the right of way in their day-to-day travel as well as those who live nearby. Interested persons should be informed about how they can view a copy of the proposed order and be given details of how they can make representations and by when. The council should then consider these representations.

**3.4** There have been longstanding issues of concern around Pool Passage, and in particular drug dealing and use, street fouling and disorderly and aggressive behaviour, and over the past two years numerous reports have been made by residents and businesses on the passage which highlight the ongoing and serious nature of these reports, which also include assault and attempted robbery. Sussex Police, Community Safety and Cityclean have given support to residents over this period, and the passageway is currently graffiti free and is covered by CCTV installed by residents, however, this does not appear to deter the ongoing criminal and antisocial acts taking place.

**3.5** The process which the council has developed for delivery and management of PSPO gating restrictions is that the council undertakes the consultation and scheme development, with the TECC committee making the final decision around the granting of an Order. All other aspects, including the gate design, seeking planning consent if required, and funding the construction installation and maintenance of a gate will become the responsibility of the affected community, and will be subject to a community partnership agreement between the community and the council. Where a PSPO includes a timed restriction, the affected community will also be responsible for locking/unlocking as appropriate.

PSPOs are subject to a three yearly review, and this work will also be undertaken by the council.

**3.6** There is limited resource staffing resource to undertake further requests for gating PSPOs in the city.

#### **4. Analysis and consideration of alternative options**

Over the past two years, residents have taken all measures at their disposal to try to bring about improvement. This has included regular repainting of graffiti, installing their own CCTV, intervening and engaging with perpetrators where they feel it is safe to do so, and reporting issues consistently to the police and council. Although this has helped, the ongoing and dynamic nature of the problems experienced mean that these approaches have been limited. Residents who have expressed a view strongly feel that a gated access restriction is the only way to secure lasting improvement. This view is echoed and supported by Sussex Police, the Regency ward councillors and Caroline Lucas MP.

The powers to grant PSPO Access restrictions are held within the [Anti-social Behaviour, Crime and Policing Act 2014](#). An important condition within the Act is that;

*65 (5) A public spaces protection order may not restrict the public right of way over a highway that is the only or principal means of access to a dwelling.*

This means that for Pool Passage the council is unable to grant an order placing an access restriction at both ends of the twitten, however, as the focus of the criminal and antisocial behaviour is held to be strongly linked with the Pool Valley area, it is felt that providing an access restriction at just this end would still offer a valuable intervention and would retain general access to properties at all times via the Old Steine entry. This approach is modelled on a similar situation at Farman Street in Hove where a single gate PSPO restriction has been in place for some years.

#### **5. Community engagement and consultation**

- 5.1 Over the past two years the council, ward councillors and Sussex Police have received numerous reports and submissions from residents concerned about criminal and antisocial behaviour on Pool Passage and its impact upon their safety and quality of life. To better understand the issues experienced and be able to inform the investigation around the requested access restriction, all residents and businesses along Pool Passage have been given a Community Safety Survey to complete and a summary of responses to this survey can be found in appendix 2

Comment has also been sought from Sussex Police, and the following submission has been received from the Neighbourhood Policing Team

“As you are aware, the residents of Pool Passage have long suffered repeated anti-social behaviour from members of the public using the Passage to urinate, defecate, use drugs and most recently graffiti. All of these incidents have caused immense distress to the residents and surrounding businesses.

Following the recent graffiti incident, I spoke with Indian Summer and Terre a Terre, the rear of these premises in in Pool Passage, the Turkish Villa Restaurant based in Pool Valley and Griffith Smith Solicitors who were all affected.

Whilst out on patrol I have been in Pool Valley when Chalk nightclub empties and have had to stand at the Pool Valley end of Pool Passage to deter patrons from exiting Chalk and going into Pool Passage to urinate.

I am very strongly of the opinion that a gate the Pool Valley end of the passage would deter a large amount of activity currently disrupting the lives of the residents and creating expense for the local businesses with cleaning up.”

The recommendation of this report is for consent to engage in a further period of statutory consultation, providing additional opportunities for engagement and public scrutiny before a recommendation on a final decision on this request is made.

## **6. Conclusion**

- 6.1 This report sets out the required statutory process to undertake work to consider whether it is appropriate to implement a PSPO in this area. A further report will be brought to committee following that statutory process.

## **7. Financial implications**

- 7.1 Costs for the council in delivering the recommendations of this report are limited to staffing costs and standard administration costs, which will be met from within existing budget resources.

Name of finance officer consulted: Michael Bentley      Date consulted  
24/05/22

## **8. Legal implications**

- 8.1 A PSPO may be used to restrict the public right of way over a highway in order to prevent anti-social behaviour and may authorise the installation, operation and maintenance of barriers for enforcing the restriction.
- 8.2 Although the Pool Passage Twitten does not fall within the category of highway over which the public right of way may be wholly restricted under ASBCPA, the proposed restriction for just one end of the Passage does fall within the powers of the Act.
- 8.3 The consultation recommended in this report will include relevant statutory and public bodies, residents, and businesses. It will also consider access needs for those with disabilities, particularly around the suitability of alternative access routes, and this will be supported by an Equalities Impact Assessment. As such fulfils the requirements of the ASBCPA.

Name of lawyer consulted: Alice Rowland Date consulted (dd/mm/yy):  
06/06/22

## **9. Equalities implications**

- 9.1 The proposal to be consulted upon restricts access and has the potential to impact upon disabled residents, although because of the extreme narrowness of the tway at the point of the proposed restriction, it is likely that residents with mobility impairments would find the Old Steine entry far more accessible regardless of this proposal. This assumption shall be tested in the proposed consultation, and we shall ensure that disability groups are contacted and engaged, alongside all other effected residents

## **10. Sustainability implications**

- 10.1 The proposal subject to the recommended consultation will restrict pedestrian access along Pool Passage at its southern entry, however, because access along this route doesn't offer a strategic or well used local route it is felt that this proposal will have a limited impact on sustainable transport choices and would not result in additional journeys by motorised transport.
- 10.2 Because the activities which we seek to address in the tway are strongly linked to criminal and antisocial behaviour taking place in the locality of Pool Valley, this process may result in reduced criminal and antisocial behaviour in the area, benefiting pedestrian safety more widely.

### **Crime & disorder implications:**

- 11.1 The purpose of the proposed scheme is to support crime reduction, better enable positive policing and offer protection to residents and businesses by addressing crime and antisocial behaviour which is having an impact on their quality of life.

### **Public health implications:**

- 11.2 In seeking to address significant and ongoing neighbourhood disorder, this proposal supports the public health and wellbeing of residents by addressing an ongoing threat their health, wellbeing and safety. For perpetrators – particularly those impacted by drug or alcohol intoxication – Pool Passage offers a very unsafe environment. The level of street fouling and the challenges of cleaning the tway also offers public health concerns.

## **Supporting Documentation**

### **Appendices**

1. Draft Order BRIGHTON AND HOVE CITY COUNCIL (Pool Passage) PUBLIC SPACE PROTECTION ORDER 2022 (including site plan)
2. Community safety survey – summary of responses

