

Brighton & Hove City Council

Tourism, Equalities, Communities and Culture Committee

Agenda Item 28

Subject: Pool Passage Public Space Protection Order 2022

Date of meeting: September 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 report back to committee on the consultation and engagement activities which have taken place following the request for a Public Space Protection Order (PSPO) access restriction at Pool Passage which was agreed at the TECC meeting of June 2022. The PSPO was requested as a response to criminal and antisocial behaviour taking place in and around Pool Passage and the consultation and engagement has explored this further with the community and key stakeholders.

2. Recommendations

2.1 That the committee grant the 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. The terms and criteria for delivering a PSPO are laid out in the [Anti-social Behaviour, Crime and Policing Act 2014](#) (The Act)

3.2 Following the June TECC ,which agreed to a statutory consultation on the draft PSO proposal further consultation has taken place which has included:

- Stakeholder meetings with residents to confirm the final design proposal for the scheme (including proposed hours of operation) and to agree the proposed community agreement. (see appendix 2)
- The final scheme proposal has been placed on the BHCC website, placed on-site and posted to all properties along and adjoining Pool Passage

- All Properties along and adjoining Pool Passage have also been contacted with a further questionnaire asking specifically about any impact on access for themselves, customers, or visitors from this proposal
- The final scheme proposal has been circulated to key statutory and other stakeholders including Sussex Police, BHCC Safety Communities, the Police & Crime Commissioner, BHCC Highways. BHCC Planning and Cityclean
- This process supplements the community safety survey which was completed by local stakeholders in June of this year. (see appendix 3)

3.3 Consultation responses: As residents and businesses had recently completed a community safety survey (May/June 22) which outlined their concerns and support for a gated restriction, we did not receive any further resident submissions at this stage in response to the consultation notice. We have however received further crime reports from residents, and further responses from the police, ward councilors and the MP for Brighton Pavilion. There were no expressions of opposition to the proposal from residents or other consultees.

3.4 In granting a PSPO the following criteria is outlined in The Act and must be met in relation to the behavior 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.

In response to these criteria, in addition to the recent community safety survey the council and police have been provided with residents' testimony outlining the issues of concern. These outline the serious and threatening nature of the criminal and antisocial activities experienced, which include drug taking and dealing, street fouling, intimidating behavior and making threats toward residents and damage to and entering property.

Resident testimony is supported by crime and incident data from Sussex Police which show substantial levels of reported crime taking place in Pool Passage, and a strong link with crime and ASB taking place on Pool Valley, which suggests that the proposed gate location would be of help in disrupting activities and providing protection for residents and traders along Pool Passage. (See appendix 4)

3.3 Where a PSPO is used to restrict a public right of way, the council must consider the impact upon the streetscape and access that the proposed restriction would have

- 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?

The proposed restriction is for night-time gating only (between the hours of 7pm and 9am). The route primarily provides access to properties on Pool

Passage and is of little value as a through route as it is very narrow in part (between 75 and 85 cm in width leading from the Pool Valley junction), and access between Pool Valley to Old Steine is more conveniently afforded by making use of the wider and better lit existing alternative routes.

- How would a proposed restriction impact upon access to residential property?

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.

As Pool Passage contains dwellings which cannot be accessed by any other route, the scheme has been designed to maintain access at all times from the northern (Old Steine) entry, with the gated access restriction to be placed at the southern (Pool Valley) entry only. This enables the proposal to meet the conditions within the Act around access to residential properties

The proposed restriction will be night-time only. Under the terms of this proposal the gate would be fitted with a PIN code for access, and all residents and businesses based on Pool Passage would be given this code.

- Would a restriction have an impact from an equality's perspective on those with protected characteristics – in particular people with disabilities?

This proposal recommends a gated restriction at the southern end of Pool Passage only. The passage at this point is very narrow (75 – 85 cm width in the section leading from Pool Valley) providing very poor existing access. The northern entry which will not be restricted is far wider and provides more convenient and accessible access.

In the second stage consultation a mailout was sent to all residents and businesses asking for information about any access issues which may be presented by this proposal, and no issues were raised.

Under this proposal, the design of the gate and locking mechanism and its upkeep and maintenance fall to the responsibility of residents as outlined in the community agreement (See appendix 2). This includes the requirement that the residents group will ensure that the gate and locking mechanism are accessible to all of those living or working on Pool Passage and making use of it, and that this will be reviewed and adapted as necessary to meet changing needs within the community

- 3.4** Under the terms of the Community Agreement, residents within the affected area will be responsible for the design, installation and upkeep of any gating scheme approved. They will also be responsible for management of the daily locking and unlocking. Failure to uphold the community agreement may result in amendment or revocation of an order granted and could lead to the removal of any gate.

Following stakeholder meetings with the residents, a draft community agreement has been drawn up (appendix 2). The residents have also been able to access funds from their ward councillors ward member budget scheme and are confident that – with additional resident contribution as required – they will be able to fund all aspects of this work.

Design guidance from BHCC Planning – particularly around the heritage sensitivity of the site – has been provided and will be followed for the commissioning and installation of any gate,

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.

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. For resident testimony and reported crime statistics see appendix 4. 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 3

6. Conclusion

- 6.1 This report outlines the background to the Pool Passage PSPO request and provides evidence to support the granting of a PSPO for this location which meets legal criteria and which can provide significant respite and protection from the impacts of serious crime and antisocial behaviour experienced by residents.

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
08/08/2022

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.

Name of lawyer consulted: Alice Rowland Date consulted: 19/8/22

9. Equalities implications

- 9.1 As an access restriction, the proposed order has the potential to impact upon those with additional access needs or disabilities. Because the passage does not form a useful through route, and the extreme narrowness (just 75cm at the narrowest point) however, the impact on those not accessing property along the passage is felt to be limited – particularly as this proposal is for a night-time only gated scheme. All properties along the passage have been contacted with specific enquiries around the access implications of this proposal and have not raised any concerns.

Alternative routes from Pool Valley to Old Steine which are wider, better lit, safer and with better surfacing are readily available and do not incur any greater distance or inconvenience.

It is not felt that this proposal would have a significant negative impact from an Equalities perspective, and the broader benefit to public safety and the reduction of community harm though this scheme is felt to outweigh any limited inconvenience which may be caused.

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 does not 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 twitten 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 twitten 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. Draft Community Agreement
3. Community safety survey – summary of responses
4. Sussex Police crime/incident report