



To: The Leader and Executive Councillor for Strategy and Transformation: Councillor Lewis Herbert

Report by: Director of Customer and Community Services

Relevant scrutiny committee: Strategy & Resources  
18/1/2016  
Scrutiny Committee

Wards affected: Abbey Arbury Castle Cherry Hinton Coleridge  
East Chesterton King's Hedges Market Newnham  
Petersfield Queen Edith's Romsey Trumpington  
West Chesterton

## **PUBLIC SPACES PROTECTION ORDER – PUNT AND TOUR TOUTING**

### **Not a Key Decision**

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#### **1. Executive summary**

The purpose of the report is to set out the result of the officers' review of evidence of anti social behaviour by punt and tour touts in the city and to ask the Executive Councillor to approve in principle the proposal to make a Public Spaces Protection Order as set out in Appendix A.

#### **2. Recommendations**

The Executive Councillor is recommended:

- 2.1 To approve in principle the proposal to make a Public Spaces Protection Order in the form set out at Appendix A;
- 2.2 To authorise officers to publicise the proposed order and to carry out the necessary consultation as required by the Anti-social Behaviour, Crime and Policing Act 2014.

#### **3. Background**

- 3.1 Punt and tour touting in the city has been the focus of complaints for many years. The complaints relate to the number of touts gathering in certain areas of the city and the behaviour of the touts.

- 3.2 The City Council received 33 complaints about touts in the period from April to October 2015. The complaints ranged from concern about the number of touts gathering together and obstructing pavements to harassment of residents and visitors, including rude and aggressive behaviour, such as urinating in public and shouting abuse at people.
- 3.3 The complaints are summarised at Appendix B
- 3.4 Nuisance and problematic touting has also been the subject of discussion at West Central Area Committee on a number of occasions over the past 5 years and was made a priority for neighbourhood policing at the meeting in April 2015. A community impact statement from the Sergeant for the area is attached as Appendix C
- 3.5 Most of the complaints relate to the city centre areas of Market Square and the surrounding streets and Kings Parade.
- 3.6 Touts operating from Kings Parade and the city centre are mainly touting on behalf of punt operators working from Garret Hostel Lane slipway, Jesus Green and Laundress Green.
- 3.7 The Conservators of the River Cam are responsible for the licensing and operation of punts on the River. On 29 September 2011 the Conservators decided that:
- 3.7.1 As of 1 April 2012 owners and operators of commercial punts must be able to satisfy two criteria as a registration requirement (a) that the punt to be used is to be operated from an officially recognised punt station, and (b) that the applicant can demonstrate evidence that they have the permission of the landowner or occupier to use that punt operating station.
- 3.7.2 The Conservators recognise the following as authorised punt stations: Granta Mill Pond, Mill Pit west, Mill Pit east, Trinity College, Quayside and La Mimosa.
- 3.7.3 Garret Hostel Lane Slipway, Jesus Green and Laundress Green are not recognised punt stations. The land is owned by the City Council, which has not given permission for use as a punt station. The operators working from this land are not licensed by the Conservators. The Conservators have prosecuted a number of the operators

for the criminal offence of breach of the Conservators' byelaws.

3.8 Over recent years the Council and the Cam Conservators have taken a number of steps to deal with the problems caused by touts, although the legal powers available to the Council are limited.

3.9 The steps we have taken include the following:

a) We have made a byelaw to regulate touting. This is in the standard form available to local authorities. It does not prohibit touting but makes it an offence to tout "in such a manner as to cause obstruction or give reasonable grounds for annoyance to any person in that street or public place". The byelaw can be an effective tool in controlling touting. However, it requires witnesses to attend Court and evidence to be produced to a criminal standard (beyond reasonable doubt) that an individual has touted in a manner that contravenes the byelaw. Usually witnesses are reluctant to come forward in these situations.

b) We liaise with licensed punt operators to make clear our expectations of the behaviour of touts and to raise awareness of the problems and perceptions to which touting gives rise.

c) For the past seven years, we have put enforcement officers on the street to monitor the behaviour of punt touts working within the limits of the touting byelaw to try and resolve problems. Since the summer of 2011 enforcement officers have worked at weekends, and evenings to patrol and to deal with touting byelaw breaches. In 2014 further enforcement officers were recruited to augment the team. Enforcement officers are present in the city centre and at problem areas at peak times (e.g. hot summer days, and weekends) but enforcement officers have a range of demanding responsibilities not limited to punt touting.

d) All but one of the punt operators working from recognised punt stations have signed up to a Code of Conduct for punt touts. This deals with the conduct of touts and limits the numbers and location of touts near to authorised punt stations.

e) Where we can, we have used our ownership of punt stations to require operators to be signatories to and comply with the Code. In particular, operators at Silver Street Bridge, Quayside and La Mimosa punting stations are required to comply with the Code of Conduct. Where the City Council cannot impose the Code of Conduct for punt operators we, encourage voluntary compliance.

3.10 Despite these steps, public concern about the activities and prevalence of touts in the city continues

4. **Anti-social Behaviour, Crime and Policing Act 2014 – Public Spaces Protection Orders**

4.1 Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 gives the Council powers to make Public Spaces Protection Orders (PSPOs). These orders are intended to deal with a nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of the area. They are designed to ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

4.2 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.

4.3 The Council can make a PSPO if satisfied on reasonable grounds that two conditions are met.

4.3.1 The first condition is that:

- (a) activities carried on in a public place within the Council'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.

4.3.2 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.

4.4 A Public Spaces Protection Order is an order that identifies the public place and:

- (a) prohibits specified things being done in that public place
- (b) requires specified things to be done by persons carrying on specified activities in that place; or
- (c) does both of those things.

4.5 The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order to prevent or reduce the risk of the detrimental effect continuing, occurring or recurring.

4.6 Prohibitions can apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories.

4.7 The order can specify the times at which it applies and the circumstances in which it applies or does not apply.

4.8 Unless extended the order may not have effect for more than 3 years.

4.9 Before making a PSPO , the Council must consult with the Chief Officer of Police, the local policing body, whatever community representatives the Council thinks appropriate to consult and the owner or occupier of land within the restricted area.

4.10 In deciding whether to make a PSPO and if so, what it should include, the Council must have particular regard to the Rights of Freedom of Expression and Freedom of Assembly set out in Articles 10 and 11 of the European Convention on Human Rights.

4.11 The Council must publish the text of a proposed order on its website.

4.12 Failure to comply with the requirement of an order without reasonable excuse is a criminal offence for which the person can be prosecuted. As an alternative to prosecution, the Police

or an authorised person can issue fixed penalty notices. A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty. The amount of the fixed penalty is set out in the notice.

The area to be covered is quite wide and includes places where licensed punt operations and associated touting take place. In Quayside, Silver Street Bridge, Trinity College frontage on Garret Hostel Lane, Queens Green and the walkway from Quayside to Jesus Green (La Mimosa), the prohibition on touting would not apply to those persons touting on behalf of punt operators operating from a punt station recognised by the Conservators of the River Cam (see paragraph 3.7 of this report).

Although complaints have mostly centred around the city centre areas of Market Square, its surrounding streets and Kings Parade if touting were prohibited in those areas only it is likely that the touts would spread out to the wider area covered by the proposed order.

## **5. Consultation**

- 5.1 If an order is approved in principle the Council is required to consult the Chief Officer of Police, the local policing body, appropriate community representatives and the owner or occupier of land within the restricted area to the extent that this is reasonably practicable.
- 5.2 It is also recommended that we put a survey on the Council website to run from 19 January to 16 February 2016 asking people if they have experienced nuisance or problematic punt touting in the designated areas, to tell us what effect this has had on their quality of life and whether they support the introduction of a PSPO as set out in the draft order (Appendix A). It is proposed that businesses and community representatives in the designated areas should also be further consulted.
- 5.3 Officers will report the outcome of the consultation to the Executive Councillor at the Strategy and Resources Committee meeting on 21 March 2016.

## **6. Implications**

### **(a) Financial Implications**

If an order is made the Council must 'cause to be erected on or adjacent to the land in relation to which the Public Spaces Protection Order has been made such notice or notices as it considers sufficient to draw the attention of any member of the public using that land to:

- (i) the fact that a Public Spaces Protection Order has been made; and
- (ii) the effect of that order being made'.

Consequently, there will be a financial cost to introducing the order. There is a cost of around £2,000 for surveyors fees to calculate where to put signs and how many will be needed to meet the requirements of the Act. The signs are estimated to cost between £32.50 and £100 each (depending on size and quality) plus delivery charge of £25 and approximately £20 each for fitting. We will also need to get permission to attach the signage to lampposts from County Council if necessary. The cost could be considerable as the Act requires that the 'notice (or notices) must be positioned in a manner that the local authority considers sufficient to draw it to the attention of any member of the public using the land.' In addition, new notices would need to be produced and erected if the order was extended, varied or discharged. A bid for £3,000 to cover the costs has been made in the budget round 2016/17 but this will not fully cover the costs.

**(b) Staffing Implications**

There will be significant staffing implications, dependent on how the Council wants to designate the issuing of fixed penalty notices for breaches of the order.

**(c) Equality and Poverty Implications**

We are in the process of completing an Equalities Impact Assessment and will complete it following the outcome of the recommended consultation.

**(d) Environmental Implications**

Nil: to indicate that the proposal has no climate change impact.

**(e) Human Rights**

In deciding whether to make a Public Spaces Protection Order and if so, what it should include, the Council must have particular regard to the Rights of Freedom of Expression and Freedom of Assembly set out in Articles 10 and 11 of the European Convention on Human Rights.

(f) **Procurement**

Costs are unlikely to fall within the procurement criteria.

(g) **Consultation and communication**

The order will also be published on the website and further consultation will take place with the groups detailed in section.

(h) **Community Safety**

As stated in the report.

**7. Background papers**

These background papers were used in the preparation of this report:

Code of Practice for Visitor Industry 2013

Home Office Guidance - Anti-social behaviour, Crime and Policing Act 2014

**8. Appendices**

Appendix A Public Spaces Protection Order and map

Appendix B A summary record of the complaints received since April 2015

Appendix C Community Impact Statement

**9. Inspection of papers**

To inspect the background papers or if you have a query on the report please contact:

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