1.0 What is the report about?

1.1 In October 2014 the Anti-social Behaviour Crime & Policing Act 2014 (the Act) introduced new powers relevant to tackling Anti-Social Behaviour. In February 2016 Cabinet approved the implementation of a 3 year Public Space Protection Order (PSPO) in Chester City Centre. The PSPO was implemented in May 2016.

1.2 PSPOs are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community’s quality of life by imposing conditions on the use of that area which apply to everyone to make public spaces safe from anti-social behaviour.

1.3 The legislation states that the maximum time a PSPO can be implemented for is three years, before requiring a formal review. The PSPO will expire on 2nd May 2019 unless it is reviewed and measures re-implemented appropriately. There are no restrictions on the number of times the PSPO can be reviewed and re-implemented. The current PSPO is shown at APPENDIX A and contains the following measures:

- Measure 1 – Controlling the use of alcohol
- Measure 2 – Deterring the use of Intoxicating Substances
- Measure 3 – Deterring Public Urination / Defecation

1.4 In order to complete the review, and in accordance with the legislation, in September 2018 Cabinet approved a 6 week public consultation on the measures within the PSPO. The Consultation began on 1st October 2018 until 12th November 2018

2.0 Recommendation
2.1 That the council renew the PSPO for the Designated Area in Chester City Centre for the maximum period of 3 years effective from 2nd May 2019, as shown in the Draft Order at APPENDIX B.

3.0 Reasons for the recommendation

3.1 The public consultation demonstrates that there is overall public support for the measures to continue.

3.2 Since the original implementation in May 2016 the PSPO has provided additional powers to manage the behaviour associated with the consumption of alcohol, psychoactive substances, urination, and defecation.

4.0 Report details

4.1 The PSPO was implemented in May 2016 following Cabinet consideration and approval of a range of measures aimed at tackling issues in Chester City Centre.

4.2 The PSPO introduced measures to restrict the consumption of alcohol, deter the use of psychoactive substances and deter public urination & defecation within the defined area in Chester.

4.3 After the implementation of the PSPO, the Psychoactive Substances Act 2016 made the supply, production or possession with intent to supply new psychoactive substances an offence. The Misuse of Drugs Act 1971 (Amendment) Order 2016 came into being after the Psychoactive Substances Act 2016 and brought certain drugs under the control of the Misuse of Drugs Act 1971. This meant a further range of synthetic cannabinoids are under permanent control as Class B drugs. These are commonly referred to as ‘3rd Generation synthetic cannabinoids’ and possession of them anywhere (including outside the PSPO area) is a criminal offence. However, the possession of the paraphernalia used to consume new psychoactive substances / synthetic cannabinoids is not an offence, and keeping this within the PSPO legislation will be an effective method of deterring use within the area.

4.4 In September 2018 Cabinet approved a 6 week consultation in order to gauge public support for the measures to continue beyond the expiry on 2nd May 2019. The consultation opened on 1st October 2018 and closed on 11th November 2018.

4.5 The measures consulted upon included deterring the use of intoxicating substances, deterring public urination/defecation and controlling the use of alcohol.

4.6 There were a number of communications internally and externally to promote the consultation and there was also briefing sessions for Chester elected members on 29th October and 22nd November. In addition the consultation
was tweeted from the Council’s Twitter account and there was a press release urging residents to have their say.

4.7 In total, 30 responses were received to the consultation. Completed questionnaires were received from the Police and Crime Commissioner for Cheshire and Cheshire Police, although most respondents were residents of Cheshire West. Chester CH1 Bid, and ForFutures also contributed to the consultation.

4.8 The majority of those who gave their views want the current measures covered by the PSPO to continue.

4.9 Of the 30 respondents 24 were residents of Cheshire West and Chester Council, the remaining respondents were from the voluntary sector, worked in the City Centre, resident of Cheshire East, from the Medical Profession, or Police & Police and Crime Commissioner.

4.10 Some elected members attended the Chester Member briefing sessions organised on 29th October and 22nd November. All indicated their support for the measures to continue.

4.11 As part of the consultation there have been some requests to extend the area of the PSPO to cover the Handbridge and Curzon park areas. At this present time there is not enough evidence, and extending the PSPO area would be a disproportionate response to the issues and concerns raised. However the ASB Unit and Local Policing Unit will continue to work with residents in those areas on their concerns.

4.12 It is acknowledged that whilst the PSPO may not have eradicated all the behaviours associated with psychoactive substances, alcohol, urination, and defecation within the designated area. The PSPO does provide additional powers to tackle those issues. For example in relation to urination which was previously enforced by prosecution for breach of the existing byelaw prohibiting urination and defecation within the city center. The maximum fine that could be imposed by the Magistrates was £200. The PSPO provides a maximum fine of £1000 with the option of using a Fixed Penalty Notice which was not otherwise available. The number of prosecutions continues to be successful with 132 breaches of the PSPO since implementation. There have been no prosecutions for breach of the Alcohol measure, and there have been 7 breaches of the psychoactive substance measure which were enforced using Fixed Penalty Notices.

4.13 Enforcement of the PSPO

Failure to comply without reasonable excuse with a PSPO is a criminal offence punishable on summary conviction in the Magistrates’ Court by a maximum £1000 (level 3) fine.

4.14 A person does not commit the offence of failing to comply with a prohibition or requirement that the local authority did not have power to include in the PSPO.

4.15 Where a constable or other authorised person has reason to believe that a person has committed such an offence they may issue a fixed penalty notice (maximum £100).
4.16 For breach of the Alcohol Measure fixed penalty notices would not be issued, but there is be a requirement to surrender the alcohol. Failure to surrender the alcohol will result in the perpetrator being prosecuted by the Local Authority.

4.17 Awareness courses as an alternative to prosecution have been offered for breach of the urination and defecation measure. However issuing fixed penalty notices is also an available option.

4.18 A large proportion of the fixed penalty notices issued for breach of the psychoactive substance measure have been unpaid. Although appropriate steps are taken to follow this up, additional sanctions are being explored and may include treatment and support as an alternative option to issuing a fixed penalty notice.

5.0 How does the decision contribute to the Council’s Plan?

5.1 The Council Plan for 2016 – 2020 is called ‘helping the borough thrive’ and sets out 10 priorities to guide all council actions, it reflects what residents said are most important to them and fully aligns with the priorities shared with other partner organisations.

5.2 Clean, Green, Safe and Sustainable Neighbourhoods can provide communities with a strong sense of civic pride and wellbeing. Environments that are pleasant, feel safe and can be widely enjoyed at a local level, support community cohesion and can be a trigger for local control/influence of services.

6.0 How does the decision contribute to working with the Councils Partners?

6.1 The PSPO is intended to have a positive impact on partners and was implemented following the consideration of evidence from our residents, and partners. The review of the PSPO will be carried out in accordance with the legislation and partners will be consulted with appropriately.

7.0 What will it cost?

7.1 The costs associated with the review of the PSPO will be in relation to the current signage that is in place within the PSPO area. This may need updating and the cost will be met from existing service budget, £4k has been allocated for this.

8.0 What are the legal aspects?

8.1 Section 59 of the Act. authorises local authorities to make a PSPO if satisfied on reasonable grounds that two conditions are met. The PSPO regime is designed to ‘put victims first’.

8.2 The first condition is that-

   a) activities carried on in a public place within the authority’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.

8.3 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, unreasonable, and
c) justifies the restriction imposed.

8.4 A PSPO is an order that identifies a specified public place and –
   (a) prohibits specified things being done in that place,
   (b) requires specified things to be done by persons carrying on specified activities in that place, or
   (c) does both of those things.

8.5 The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order -
to prevent the detrimental effect referred to in subsection (2) from continuing, occurring or recurring, or
to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

8.6 A prohibition or requirement may be framed-
so as to apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories;
so as to apply at all times, or only at specified times, or all times except those specified.

8.7 In establishing which restrictions or requirements should be included, the Council should ensure that the measures are necessary to prevent the detrimental effect on those in the locality or reduce the likelihood of the detrimental effect continuing, occurring or recurring.

9.0 What risks are there and how can they be reduced?

9.1 If the review does not take place the PSPO will expire on 2nd May 2019 and the current restrictions in relation to Novel Psychoactive Substances will no longer be in place. The Council may resume prosecution of urination and defecation by virtue of the byelaw which may revive. However there will be a reduced level of fine and fixed Penalty Notices may not be offered. The Alcohol restrictions will remain as they are included in the former Designated Public Places Protection Orders which were effective borough wide in relation to the consumption of alcohol, and they transferred into PSPOs in October 2017. They will expire in 2020 but will be reviewed as to their renewal prior to expiry.

10.0 What is the impact of the decision on health inequalities and equality and diversity issues?

10.1 The review of the PSPO was evidence based upon information from the public consultation. Vulnerability and protected groups were considered within the review to ensure that individual needs were considered.
11.0 Are there any other options?

11.1 To allow the PSPO to expire therefore removing the current measures. A new PSPO could be considered based upon new evidence and new measures considered accordingly.

For further information:

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Background Documents:

- APPENDIX A Existing PSPO
- APPENDIX B Draft Order
- Consultation Report