

Scrutiny Co-ordination Committee
Cabinet

6th November, 2023
7th November 2023

Name of Cabinet Member:

Cabinet Member for Policing and Equalities – Councillor A S Khan

Director Approving Submission of the report:

Chief Legal Officer

Ward(s) affected:

St Michaels (City Centre only)

Title: Amendment of the City Centre Public Spaces Protection Order (PSPO)

Is this a key decision?

No

Executive Summary:

There has been a visible increase in the number of e-bikes, cycles and e-scooters using pedestrian areas of the city centre, namely, Broadgate, Upper Precinct, Market Way, Smithford Way, Shelton Square, Hertford Street and Bull Yard. This has led to concerns being raised by people feeling unsafe.

The level of concern has been raised particularly due to the volume of e-bikes and motorcycles that look like bikes being used by delivery teams. Some people have also been observed to be riding recklessly and in a dangerous manner and the speed of some of e-bikes, e-scooters and cycles makes some pedestrians feel unsafe.

The Council wants to ensure that people feel safe when visiting the city centre and to mitigate against any potential accidents whilst also recognising the importance of enabling cyclists to travel around the city.

One option which could potentially help to manage this emerging issue is an amendment to the current City Centre Public Spaces Protection Order (PSPO) requiring people on bikes to dismount in defined pedestrian areas of the city centre. To understand what city centre users felt about this proposal a comprehensive consultation was undertaken into the stopping of e-bikes, e-scooters and push cycles being ridden in the pedestrianised area of the city centre. This report outlines the outcome of that consultation and supports a proposal to amend the current PSPO.

As can be seen in Appendix 3b we received formal consultation responses from Transport for West Midlands, the West Midland Mayor's Walking and Cycling Ambassador and Councillors all asking if a blanket ban on all bikes was necessary or proportional to the current issues. Concerns were raised that it could be counterproductive and send out contradictory messages about how cyclists are treated in the city.

Some respondents to the consultation also opposed the blanket ban and commented that we should target only e-bikes as they cause the majority of the problems.

Recommendations:

Scrutiny Co-ordination Committee is recommended to consider the report and submit any comments and or Recommendations to the Cabinet for consideration at their meeting on 7 November, 2023

The Cabinet is recommended to :

1. Note the consultation outcome and accompanying Equality Impact Assessment.
2. Consider any comments and/or recommendations received from Scrutiny Co-ordination Committee.
3. Consider and approve an amendment of the current City Centre PSPO (Appendix 1). This amendment would require e-bike and e-scooter riders to dismount when entering the designated area within the pedestrianised area which is shown in Appendix 2b of the report.
4. Note that anyone riding dangerously or recklessly on a bike of any kind could be subject to a fixed penalty notice.
5. Authorise officers to bring the Order into effect from the 20th November 2023.

List of Appendices included:

- Appendix 1 City Centre (2023) Public Space Protection Order for Coventry
- Appendix 2a City Centre PSPO Master map
- Appendix 2b Map showing designated pedestrian area
- Appendix 3a Summary of public consultation undertaken
- Appendix 3b Formal responses to public consultation undertaken
- Appendix 4 Summary of responses from key partners
- Appendix 5 Enforcement activity for existing Order
- Appendix 6 Equality Impact Assessment

Background papers:

None

Has it been or will it be considered by Scrutiny?

Yes – Scrutiny Co-ordination Committee – 6 November, 2023

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Amendment of the City Centre Public Spaces Protection Order (PSPO)

1 Introduction

1.1 Public Space Protection Order (PSPO)

1.2 The Anti-Social Behaviour, Crime and Policing Act 2014 gained Royal Assent in April 2014. The PSPO provision has been in operation since 20th October 2014. PSPOs are intended to provide a means of preventing individuals or groups committing anti-social behaviour in a public space where the behaviour is having, or likely to have, a detrimental effect on the quality of life of those in the locality; be persistent or continuing in nature; and be unreasonable.

1.3 The current City Centre PSPO came into effect on 14th July 2023 for a period of 3 years, following a period of consultation. The City Centre PSPO covers a range of measures related to the city centre including, but not limited to cycling behaviour.

1.4 Since the renewal of the City Centre PSPO concerns have been raised with elected members regarding cycling behaviour and public safety as a result of the actions of some cyclists, particularly e-bikes and motorbikes that look like e-bikes using excessive speed, the dangers to pedestrians generally but particularly vulnerable individuals and the likelihood of a serious injury.

1.5 The current PSPO has a provision that allows an authorised officer to order cyclists to dismount if it is felt that their riding is reckless or dangerous. The PSPO in its present form requires a continuous presence of enforcement officers in the city centre to monitor behaviour and issue Fixed Penalty Notices (FPN) as and when required. The number of cycles has also increased which again presents a challenge.

1.6 Without amending the City Centre PSPO, the Council has limited powers to address cycling generally in the city centre and only allows for action to be taken by the Police retrospectively once an incident has occurred.

1.7 Whilst the Police have powers to seize e-bikes that exceed permitted limits, this is not seen as a long term solution due to the powers only being available to the Police. Equally, there are many permitted e-bikes that would still pose a risk in the protected area.

1.8 A condition requiring all e-bike riders to dismount would help improve safety.

1.9 The way in which food delivery firms employ delivery riders means that they are classed as self-employed, and as such firms claim they have no way to definitively control the manner in which their riders operate. These workers are paid by the order and therefore the business model encourages them to be as quick as possible and they will typically take the quickest route and often ride in the fastest manner, which is not conducive to pedestrian safety. In the event that this new PSPO requirement comes into force officers intend to work with business and look at alternative routes that will minimise any disruption to the business. The businesses that food and goods are collected from should have some responsibility and we will work closely with some key businesses in the city centre.

1.10 As well as e-bikes e-scooters are also proposed to be included in the Order. Very recently, a serious injury on the High Street involving an e-scooter and a pedestrian occurred. Whilst technically e-scooters are illegal to be ridden anywhere but on private land, the legal picture, and Government announcements regarding a general review of e-scooter legislation, means the Council is going to include them for absolute clarity and pedestrian safety.

Organisations such as The Royal National Institute of Blind People (RNIB) have stated their concerns about the increased threat to people with visual impairments posed by e-bikes and e-scooters because of their speed and near silent operation. Equally other risks are posed to others with protected characteristics. This can be seen by the Equality Impact Assessment at Appendix 6 of the report which shows that overall, any inconvenience caused is outweighed by the benefits to those otherwise more vulnerable.

- 1.11 The Council's aim is to improve the city as a place to live, shop and do business. It is recognised that in order to do this the Council needs to make the city, and city centre, as attractive and safe a destination as possible. This can be helped by minimising any factors that may deter people from visiting the city centre, such as personal safety. This PSPO addresses these issues in a defined area.
- 1.12 The power to make a PSPO rests with the Council, in consultation with the Police, other relevant bodies and the general public.
- 1.13 The Council can only make a PSPO when it is satisfied on reasonable grounds that the activities carried out or likely to be carried out in a public place have a detrimental effect on the quality of life of those in the area and are persistent, continuing, and unreasonable. The Council would also need to be satisfied that the restrictions imposed were justified.

2 Cycle Friendly City

- 2.1 In considering whether to extend the controls on the current City Centre PSPO, the need to offer all cyclists the ability to travel around the city centre and the Transport Strategy has been considered. The Strategy sets out plans to create a city where it is easy convenient and safe to walk, cycle and travel on public transport.
- 2.2 The Strategy is committed to ensuring our city centre thrives, members of the public feel safe and the Council's aspiration to make the city as a whole a safer and more pleasant environment for all.
- 2.3 In addition, the Strategy sets out a commitment of introducing dedicated cycleways across the city, to make cycling safer and to ensure that cyclists do not have to share road space with vehicular traffic on busy routes. A new cycle network will link neighbourhoods to the city centre and other neighbouring areas.
- 2.4 Whilst the Strategy and Implementation plan at the time of being approved by Cabinet in November 2022 reflected current plans, it was noted the importance to remain flexible in the approach and to add to or adjust to respond to changing circumstances, including local policy decisions.
- 2.5 It was also noted that prior to the current investment in the new cycle routes, the existing cycle network in Coventry is variable in standard, and where off road routes are provided they are typically shared with pedestrians. It is the city centre, that is now being looked at and where concerns have been raised by pedestrians in respect of safety. The restricted area is within close proximity to alternative cycle routes. E-bike riders would only be required to dismount for a short distance.
- 2.6 In considering the consultation responses and recognising the existing Coventry Transport Strategy as part of the proposal there is a commitment to ensure a holistic approach when looking at provision of cycling infrastructure moving forwards to ensure the city centre is still welcoming to all cyclists. This will include looking at cycle parking provisions and a city centre cycle map.

2.7 The Council is committed to remaining a cycle friendly city. The benefits of cycling in terms of sustainable active travel and the subsequent health and wellbeing benefits are clear and our city needs to be accessible for cyclists. Consultation responses confirmed the need to amend the existing City Centre PSPO, with many respondents wanting cyclists to dismount in the pedestrian area of the city centre, however the main theme from those respondents that did not want to amend the PSPO was that the Order should concentrate on e-bikes and e-scooters.

3 Results of consultation undertaken

3.1 Public consultation was undertaken in the form of a survey which ran from 11th September to 9th October 2023. Council officers undertook daily surveys within this period. There was an online survey, and officers conducted in person interviews in the city centre whilst paper copies were also available at the Council House and Central Library.

3.2 The surveys took place within the city centre for two hours in the morning and two hours in the afternoon. Officers conducted the surveys with key areas of the city centre such as Broadgate, Market way, and Upper Precinct. The Officers spoke to a range of people in the city centre including cyclists. This survey comprised a number of questions and responses were sought from the public. The survey asked whether they supported a ban on riding of e-bikes, pedal bikes and e-scooters in the city centre and if skateboarders and manual scooters should be included. The survey also asked if the proposed area was adequate and if the Order should be in place 24/7 every day of the year.

The consultation saw 1158 of respondents.

3.3 The result of the consultation is detailed in Appendix 3a. In summary:-

- 84% (970) of respondents feel that the riding of e-bikes, pedal cycles and e-scooters make them feel less safe in the city centre. 16% (178) disagree with the statement.
- 79% of the respondents were in agreement with amending the PSPO to ensure that cyclists dismounted in the pedestrianised area of the city centre.
- Most of the people who did not support the extension felt it was unfair to punish sensible cyclists and that the Order should concentrate on e-bikes and e-scooters.
- Respondents also gave examples of pedestrians being hit or narrowly missed by e-bikes and e-scooters.
- 74% (848) of respondents agree with the Order being in place 24/7. 16% (180) of respondents do not agree with any ban at all. 10% (116) felt that the Order should be time related.
- 49% (549) stated they thought that the PSPO Order covers enough area in the city centre. Over a third, 36% (414) disagreed and 16% (183) were not sure.

3.4 A number of formal responses were received to the consultation (Appendix 3b).

3.5 Responses from the West Midlands Combined Authority and an advocacy group for disabled cyclists (Wheels for Wellbeing), expressed concerns that any proposal may disadvantage and deter disabled cyclists from the city centre. We acted on some of their suggestions, as

reflected by wording in the suggested draft legal Order and an Equality Impact Assessment was carried out that addressed some of their other concerns (Appendix 6).

- 3.6 Consultation also took place with key stakeholders, namely West Midlands Police, Coventry Business Improvement District and the Neighbourhood Enforcement team that patrols the city centre and enforces the Order alongside Police colleagues. All partners noted that public opinion was definitely shifting towards the view that decisive action needs to be taken regarding dangerous cycling in pedestrianised areas. Their responses can be seen in Appendix 4 to the report.
- 3.7 It is a requirement of granting a PSPO that it can be shown that it is needed and proportionate to a given issue. Statements and responses from specific organisations and their support for the amendment can be found in Appendix 4 of the report.

4 Public Engagement and PSPO as a deterrent

- 4.1 A communications plan will be in place to reinforce the message to cyclists, pedestrians and local businesses. Public signage will be updated one week prior to the go live date and the Order will be publicised in accordance with the Act and the Regulations. Communication will be sent to delivery platform operators and businesses who use their delivery services so that they can make their employees aware of the restriction operating in the city centre and a City Centre Cycle Map that they can use to navigate around the city centre. Officers will be also speaking to delivery cyclists congregating outside businesses.
- 4.2 If the proposed Order is made, during the first three weeks of its operation, it is intended to focus on engagement and raising awareness of the controls, following which enforcement will begin.
- 4.3 The Council will publish the new Order on its website and it will be communicated widely via the erection of notices across the city centre, a press release, social media, leaflet drops, posters in takeaway premises and on the Council's website.
- 4.4 The Council will actively engage with businesses and online delivery companies which are serviced by e-bikes and checking that they are taking the relevant steps to ensure that riders who are associated with their business are acting appropriately.
- 4.5 Officers will actively engage with delivery people when they are waiting to collect their order to ensure that they are aware of the amended Order.
- 4.6 As part of the Equalities Impact Assessment (EIA), we will ensure that the new PSPO signage is clear, and there is good engagement and publicity.
- 4.7 The EIA will be monitored to ensure that future intelligence and information which better informs our understanding and impact of when a new PSPO is considered.

5 New Approach to Enforcement

- 5.1 Enforcement will be a key element of the amended City Centre PSPO and as such ensuring the right controls is essential. Feedback as part of the proposal to consider amending the City Centre PSPO has raised concerns about the effectiveness of enforcement to date. Therefore, a multi-agency engagement, intervention and enforcement approach to support the amended PSPO, if approved, has been agreed with partners.
- 5.2 There are a number of enforcement options ranging from a warning, and or issuing FPNs, to prosecution where the FPN is not paid or it is not considered appropriate to issue a FPN. Where a person believes to have breached the PSPO refuses to give his/her name and

address then they may be prosecuted and on conviction fined up to level 3 fine on the standard scale, currently £1000.

- 5.3 A new multi-agency agreement will also see Police Officers issuing FPNs for breaches. Furthermore, the PSPO affords persons authorised by the Council to be authorised to enforce breaches of a PSPO, therefore it is proposed that officers working for the Business Improvement District (BID) will also be authorised to undertake this role. This will provide a consistent enforcement presence in the city centre. The process will follow the Council's Enforcement Policy this will range from warnings, to fixed penalty notices and prosecutions. This will vary depending on the circumstances of the breach. Enforcement will be focused on hotspot areas and with police partners to stop people who breach the Order.
- 5.4 There is also an aim to improve information sharing between the Council and the Police and a new information sharing process will be put in place. This new system will ensure that breaches are recorded and shared by partners and that where appropriate FPNs are issued and recorded by all.
- 5.5 The engagement and enforcement activity will be monitored through the fortnightly city centre partnership tasking meeting attended by the Police, BID and the City Council. Furthermore, PSPOs will be added to the Council's monthly City Tasking meeting that reports to the Police and Crime Board. This will provide data that can evidence the effectiveness of the PSPO and enforcement activity.
- 5.6 If approved, during the first month of the new City Centre PSPO, City Council Neighbourhood Enforcement officers will patrol the city centre, alongside Police and BID partners, thereafter resource will be reviewed to determine the continued resource requirement.

6 Options considered and recommended proposal

- 6.1 **Do nothing (not recommended).** The current PSPO provides an ability to enforce against those cyclists who are riding recklessly or dangerously. However, this is a subjective requirement and is challenging to enforce. The increase in the volume and speed of cyclists in the city centre is a real concern for residents as demonstrated by the consultation responses and implementing an amended PSPO with a clear requirement to dismount in the defined area with a targeted enforcement activity will act as a deterrent. This option is therefore not recommended.
- 6.2 **Approve the recommended amendment to the City Centre PSPO (recommended).** The current City Centre PSPO would be amended, requiring specified riders (e-bike riders and e-scooters) to dismount within the restricted area. The wording of the amended City Centre PSPO can be seen in Appendix 1 to the report. The Order would be brought into effect on 20 November 2023.
- 6.3 The proposed City Centre PSPO will cover the small defined pedestrian area namely, Broadgate, Upper Precinct, Market Way, Smithford Way, Shelton Square, Hertford Street and Bull Yard. This is detailed on Appendix 2b to the report.

7 Timetable for implementing this decision

- 7.1 If approved by Cabinet, work to implement the amended City Centre PSPO will begin immediately as set out in the table below:

Milestone	Date to be completed
Report to Scrutiny Coordination Committee	6 th November 2023
Report to Cabinet	7 th November 2023
Publish new City Centre PSPO	13 th November 2023
City Centre PSPO comes into force	20 th November 2023
Publicity and Engagement period	20 th November – 3 rd December 2023
Monitoring and Enforcement of the City Centre PSPO	4 th December 2023

7.2 It is proposed that a three-week period of education and publicising of the amendment be put in place to support and encourage behaviour change and compliance. This three-week period would provide a pragmatic risk-based approach to enforcement, with the priority being education and support in most cases.

7.3 A PSPO is valid for a period of three years, and can be rescinded, amended, or extended at any point during that period. Any amendment or extension will need to follow the consultation and approval process again.

8 Comments from the Chief Operating Officer (Section 151 Officer) and the Chief Legal Officer

8.1 Financial implications

It is anticipated that additional signage, stencils and materials to inform the public of the new proposed measures will cost approximately £650. This will be met from existing budgets.

No additional resource will be required to implement the proposed amended PSPO. Any additional income generated by the introduction of a PSPO will contribute towards Council resources.

8.2 Legal implications

Under sections 59-75 of the Anti-social Behaviour, Crime and Policing Act 2104, local authorities have powers to make PSPOs.

The Council can only make a PSPO when it is satisfied on reasonable grounds that the activities carried out or likely to be carried out in a public place have a detrimental effect on the quality of life of those in the area and are persistent, continuing, and unreasonable. The Council would also need to be satisfied that the restrictions imposed were justified.

Should anyone object to the granting of a PSPO they would have to make a High Court application within 6 weeks of the Order being granted.

For that appeal to be successful they would have to show that the Council did not have the power to make the Order, as the issue covered has not been demonstrated, usually by empirical evidence, to be a significant enough issue to justify the restriction. The other grounds for the appeal would be to demonstrate that the consultation process was inadequate.

PSPOs can only apply to public places. This means any place to which the public, or and sections of the public, on payment or otherwise, have access to as of right or by virtue of express or implied permission.

The Council will decide whether it is appropriate to issue a fixed penalty notice for any breach of the PSPO witnessed by an enforcing officer. In line with other PSPOs in Coventry, any FPN for non-compliance with a PSPO will be set at £100 reduced to £60 if paid within 14 days. If the FPN is not paid, court proceedings can be initiated to prosecute for the offence of failing to comply with the PSPO where the maximum fine is currently £1000 (level 3 on the standard scale). Following conviction, the Council could apply for a Criminal Behaviour Order which can contain both prohibitions and positive requirements.

Regulation 2 of the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 (*SI 2014/2591*) is clear about the publication of the notice – it must be published on the Council's website and notices.

9 Other implications

9.1 How will this contribute to the One Coventry Plan?

<https://www.coventry.gov.uk/strategies-plans-policies/one-coventry-plan>

Crime and Disorder

Tackling crime and anti-social behaviour through partnership working is central to the work of the Community Safety Team and Strategic Assessment work.

9.2 How is risk being managed?

Police and Council officers continue to incorporate the area in their patrol strategies and work schedule and will monitor behaviour of individuals.

9.3 What is the impact on the organisation?

None

9.4 Equalities Impact Assessment (EIA)

An Equality Impact Assessment to ensure no minority group is unduly disadvantaged by the implementation of any amended Order has been conducted.

The Assessment can be found in Appendix 6 of the report. The Order, if approved, will not apply to mobility scooters and exemptions will be provided for disabled cyclists providing they ride their cycles in a safe and responsible manner.

It is felt any inconvenience to cyclists that need to dismount will be minimal and be far outweighed by the benefit to pedestrians generally, but particularly those with visual impairments or mobility issues.

9.5 Implications for (or impact on) climate change and the environment

The purpose of taking action is to address adverse behaviours in the city centre, in an attempt to improve the environment and wellbeing of the community. It is recognised that cycling is an environmentally friendly format of travel and should be encouraged and Coventry continues to support and encourage active forms of transport including cycling.

9.6 Implications for partner organisations?

Powers granted will also be available to West Midlands Police and the BID.

Report author:

Liam Nagle

Name and job title:

Liam Nagle

Community Safety Officer

Service:

Streetscene and Regulatory Services

Tel and email contact:

Tel: 02476 832063

Email: Liam.Nagle@coventry.gov.uk

Enquiries should be directed to the above person

Contributor/approver name	Title	Service	Date doc sent out	Date response received or approved
Contributors:				
Colin Knight	Director, Transportation and Highways	Transportation and Highways	14/10/2023	14/10/2023
Sarah Elliott	Head of Fleet and Waste Management	Streetscene and Regulatory Services	24/10/23	24/10/23
Davina Blackburn	Strategic Lead, Regulation and Communities	Law and Governance	13/10/2023	13/10/2023
Richard Moon	Director, Property Services and Development		18/10/2023	18/10/2023
Suzanne Bennett	Governance Services Officer	Law and Governance	16/10/23	16/10/23
Names of approvers for submission: (officers and members)				
Cath Crosby	Lead Accountant	Finance		
Gill Carter	Senior Solicitor	Law and Governance	18/10/2023	18/10/2023
Joanne Pay	Senior HR Manager	Human Resources	24/10/23	24/10/23
Julie Newman	Chief Legal Officer		13/10/2023	13/10/2023
Councillor A S Khan	Cabinet Member for Policing and Equalities	-	14/10/2023	16/10/2023

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