

# ***Vibrant and Sustainable City Scrutiny Panel***

## **11.2.16**

Date 15.1.16

## **Briefing Paper**

To: The Chair, Councillors of the Vibrant and Sustainable City Scrutiny Panel.

### **Title: Taking Forward the Management of the City Centre Public Realm**

a) This paper will have also been to the Environmental Infrastructure Board and the Connected Spaces Working Group for comment prior to a more detailed report will be presented to the scrutiny panel on 14.4.16.

This report proposes that we revisit some of the issues considered in the report of the same name endorsed by Cabinet on 7 December 2011.

It is an opportune time to revisit the regulation of the city centre public realm environment for a number of reasons including:

- The current investment in the regeneration of the physical city centre public realm environment.
- Changes in the nature and levels of the trade and public activities which are having a detrimental effect on the city centre environment.
- Recent introduction of new legislation to allow local authorities to control activities that have a continuing detrimental effect on the quality of life of those in the locality, through community protection notices and public space protection orders.

The main aim of this report is to bring to the attention of the panel, difficult public realm issues within the city centre environment and to suggest ways forward to mitigate the issues through regulatory activity. It also provides information on the recently introduced Anti-social Behaviour Crime and Policing Act 2014.

Once the proposed measures have been piloted within the City Centre for 12 months they will be reviewed to determine if they should be rolled out to the other commercial hubs.

b) Key Issues

The appropriate use of regulation can effectively control illegal, poor and otherwise unsympathetic trade and public activities in the city centre and promote responsible, sympathetic, activity which complements the on-going physical regeneration of the city centre.

A number of priority issues have been identified from complaints received by the council from members of the public and city centre businesses and from consultation with city centre stakeholders including the City Centre Tasking Group, Business Improvement District Company and West Midlands Police.

**The priority areas along with measures to create improvements.**

Issue	Impact	Current Controls	Explore The Following Proposed Measures.
<p>Commercial bins permanently stored on the highway.</p>	<p>Negative aesthetic impact. Allow deposit of waste by others. Attract side waste. Facilitate bin dipping, with associated release of waste. Obstruction of the highway and in some cases nuisance.</p>	<p>Commercial waste containers on the highway within the city centre are tolerated via policy endorsed in 2010/11 where the business has nowhere to store them on the premises and enforcement could potentially result in a business being unable to operate.</p>	<p>Robust application of planning regime where possible to ensure new builds have adequate waste storage facilities.</p> <p>Take a more robust approach to trade waste containers on the highway within existing policy to ensure businesses that have space to store their waste containers on their premises do so.</p> <p>Amend policy to facilitate the following:-</p> <ul style="list-style-type: none"> <li>• Minimise numbers of bins required by increasing collection frequency where appropriate.</li> <li>• The BID Company are looking at businesses bin sharing to minimise no.s of bins.</li> <li>• Where bins have to be stored on the highway, keep them within a council approved housing at an agreed location, to minimise the aesthetic impact, prevents the use of the bin by others and prevents bin</li> </ul>

			<p>dipping.</p> <ul style="list-style-type: none"> <li>Where a bin housing cannot be used the bin could be painted/ vinyl wrapped to either create street art or minimise its aesthetic impact. The bin would be chained in an agreed location and the lid be adequately secured.</li> </ul>
Domestic bins permanently stored on the highway.	<p>Negative aesthetic impact. Allow deposit of waste by others. Attract side waste. Facilitate bin dipping, with associated release of waste. Obstruction of the highway.</p>	<p>There are currently no legal controls / policies in place over domestic waste containers stored on the highway. The Highways Act 1980 obstruction of the highway applies in the same way as it does to commercial bins.</p>	<p>Robust application of planning regime where possible to prevent the designing/building out of waste storage facilities.</p> <p>Utilise Section 46 of the Environmental Protection Act 1990 to instruct occupiers of domestic premises as to storage containers used and presentation of waste for collection.</p> <p>Implement a policy similar to that proposed relating to commercial bins.</p>
Proliferation of A-Boards	<p>The numbers, size and variety of both permitted and non-permitted A-boards have grown significantly in recent years. They are becoming an obstruction in some areas of the city centre and they are having a negative aesthetic impact.</p>	<p>There is currently a permitting scheme for A-boards within the city centre, any board not permitted is classed as an obstruction under the highways Act 1980 and can be moved within X days.</p>	<p>Prioritise enforcement of the existing permit scheme. If this is not successful in controlling the number of A-boards look to revisit the existing policy. Consult on an approach that would permit far fewer A boards in either all or in specified areas of the city centre.</p>
Street Preaching.  Complaints from city centre businesses.	<p>Street preaching in itself can have a positive effect with members of the public stopping to listen. However the preachers who use loud hailers and amplifiers impose themselves on the businesses nearby causing significant disturbance and interfering</p>	<p>It may be possible to address nuisance street preaching as statutory nuisance under the Environmental Protection Act 1990 or via community protection notices under the Anti-social Behaviour, Crime and Policing Act 2014.</p>	<p>There are practical problems associated with enforcing statutory nuisance provisions and the use of either legislation could cause reputational damage in these circumstances.</p> <p>Possible options include the introduction of a</p>

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	with their business, this is particularly true when they locate themselves near to promotional spaces and licensed street trading pitches.		'Voluntary Code of Conduct For Street Preaching.' This could be promoted by the BID - City Centre Ambassadors, Regulatory Service compliance officers and the Police.
Busking  Regular complaints from city centre businesses.	<p>Busking brings vibrancy to the city centre and entertains members of the public.</p> <p>It becomes a problem in the following circumstances: Position obstructs highway. Too close to promotional spaces or licensed pitches. Too loud. Busker remaining in the same place for long periods. Repeating the same song too frequently.</p> <p>There has been an increase in the number of buskers over the past 18 months, the authority receives many complaints from local businesses that loud busking is having a negative impact on their businesses.</p>	It may be possible to address nuisance busking as statutory nuisance under the Environmental Protection Act 1990 or via community protection notice under the Anti-social Behaviour, Crime and Policing Act 2014.	<p>There are practical problems associated with enforcing statutory nuisance provisions.</p> <p>Proposal to seek advice on the introduction of a 'Street Entertaining Code Of Practice' backed by the use of Community Protection Notices for significant breaches. This could be promoted by the BID – City Centre Ambassadors, Regulatory Services Compliance officers and the Police. With Regulatory Services Officers and Police Officers able to issue CPN's and subsequent FPN's</p>
Drinking in the Street and other public spaces.	Three are various places around the city centre where people gather and drink in public, regardless of whether their behaviour is in any way anti-social their appearance drinking can make people feels threatened and put them off the city centre.	Existing Designated Places Protection Orders, which give powers to stop drinking of alcohol associated with anti-social behaviour in public places, has been effective but will in time be replaced by Public Spaces Protection Orders. Under the new Act DPPO's continue to be valid for a period of three years from the commencement of the new provisions; so until late 2017.	Revisit in 2017.
Begging	Begging within the city centre is a regular problem. It is off putting to members of the public.	Begging is illegal under the Vagrancy Act 1824, it actionable by the Police.	Revisit in 2017. See below #.

Sleeping and camping in public places.	There are a growing number of homeless people sleeping within the city centre and congregating on and around the walking bridge from the train station obstructing it. Their presence is off putting to the public.	There are a lot of services in place to assist homeless people both with a safe place to sleep and to assist with their other problems. It is life choices that put many of our homeless on the street.	Revisit in 2017. See below #.

## Summary of Public Spaces Protection Order's

A **Public Spaces Protection Order (PSPO)** is a relatively new provision, created by the Anti-social Behaviour, Crime and Policing Act 2014, which is intended to deal with a particular nuisance or problem in a defined 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.

The aim is to stop individuals or groups committing anti-social behaviour in public spaces. Restrictions and requirements can be placed on an area where activities have or are likely to have a detrimental effect on the quality of life of local people, is persistent or continuing in nature and is unreasonable. These can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times. The Guidance is not specific on what can be included in a PSPO. The potential for their use appears to be very broad and flexible to allow a Council to cover individual circumstances in its area.

Enforcement will be shared between the Council and the police. Breach of a requirement to desist in a particular activity is a criminal offence which can result in the issuing of a Fixed Penalty Notice (FPN) or a prosecution attracting a fine of up to £1,000 on conviction. Enforcement can be undertaken by Council Officers, and other groups the Council may designate, but principally police officers and PCSOs.

## Recent Attempts to Introduce PSPO's

Many local authorities are in the process of trying to introduce PSPO's to address undesirable behaviour in their areas. Two have been used successfully in Wolverhampton to address community based nuisance and disturbance.

Initially the orders appear to be a panacea for previously difficult to address anti-social behaviour in city centres. However recent cases show they are not as easy to introduce as may first appear. Oxford and Birmingham recently tried to introduce a PSPO's to cover many of the issues detailed above in their areas. In both cities the public consultation resulted in a general vote against introducing the PSPO's, Birmingham have dropped their plans for a street entertaining PSPO. Oxford have deferred their plans for a PSPO to cover amongst other issues, begging, sleeping in street when accommodated, busking and street drinking. Liberty have obtained a legal opinion stating that many of the restrictions in their planned PSPO were unlawful.

**# The use of PSPO's for city centre issues could be revisited in 2017 when their use for the above issues will have been tested by other authorities.**

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