

Bath & North East Somerset Council		
MEETING	Cabinet	
MEETING	9 September 2015	EXECUTIVE FORWARD PLAN REFERENCE:
		E2777
TITLE:	Consideration of the introduction of a Public Space Protection Order to ban the amplification of busking in Abbey Green, Abbey Churchyard and Kingston Parade	
WARD:	Abbey	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix A Summarised responses to the consultation exercise on the proposed PSPO		
Appendix B Anti-social Behaviour, Crime and Policing Act 2014, Section 43 Community Protection Notices (CPNs)		
Appendix C Busking complaints received by B&NES Council in 2014 and 2015		

1 THE ISSUE

- 1.1 This report brings the findings of the consultation exercise carried out on the proposal to introduce a Public Spaces Protection Order (PSPO), prohibiting the use of amplifiers by street entertainers in specific areas of Bath city centre; Abbey Church Yard, Kingston Parade and Abbey Green. A consultation exercise has been undertaken to hear the public's views and consider the various options available to reduce noise nuisance. There were 1429 responses to the consultation.
- 1.2 A Local Authority can make a PSPO under Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 (the Act).

2 RECOMMENDATION

- 2.1 The Cabinet considers the results of the consultation and, in the light of the very close response numbers for and against, it is recommended not to introduce a PSPO to ban amplification of busking at this stage.
- 2.2 The Cabinet endorses the continued use of Community Protection Notices (CPNs) and engagement with the Busker Stakeholder Group.
- 2.3 The Cabinet reviews this decision in December 2015.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 If introduced, there would be legal costs to prepare and ratify the PSPO which would be approximately £300.
- 3.2 If introduced, the Council would need to install signage to publicise the area affected by the PSPO. This is estimated to be £500 and there would be ongoing revenue costs to maintaining this signage.
- 3.3 The Act states that a PSPO may not have effect for a period of more than 3 years, unless extended. Before the PSPO is due to expire, the Council may extend the period for which it has effect if satisfied, on reasonable grounds that doing so is necessary to prevent occurrence or recurrence, after that time, of the activities identified in the order, or an increase in the frequency or seriousness of those activities, after that time. This could incur costs to complete another public consultation which could amount to £3,000.
- 3.4 Alternative enforcement through Community Protection Notices (CPN's) can incur legal costs. Whilst these can be managed within existing budgets, an element may be recovered on successful prosecution at the discretion of the court.
- 3.5 Enforcement of busking complaints whether during the day or outside of office hours is currently funded from within existing budgets with assistance from partners including Avon and Somerset Police. There would be a budget pressure if the number of complaints markedly increased and further enforcement operations were required.
- 3.6 All costs outlined, excepting further enforcement costs in the case of significant complaint increases, would be managed within existing budgets.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The power to make a PSPO is found in section 59 of the Anti-social Behaviour, Crime and Policing Act 2014.
- 4.2 A Local Authority can make a PSPO if they are satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:
- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
 - is, or is likely to be, persistent or continuing in nature;
 - is, or is likely to be, unreasonable; and
 - justifies the restrictions imposed.

4.3 Relevant considerations: Equality, Social Inclusion and Customer Focus

5 THE REPORT

- 5.1 The Council completed a twelve week consultation exercise between January and March 2015 on the proposed prohibition of amplification by street entertainers, in specific areas of Bath city centre which are Abbey Green, Abbey Churchyard and Kingston Parade. This report details the findings of the consultation together with

officer comments and recommendations. Summarised comments received during the consultation are provided in Appendix A.

- There were **1429** responses to the consultation. **1360** people responded online and **69** submitted written responses. Every person who responded did not answer every question. Condensed results are shown in full in Appendix A.
- **613 (44%)** responders indicated that they had been adversely affected by amplified music from busking; **774 (56%)** responders indicated that they had not been adversely affected.
- **659 (47.5%)** responders indicated that the noise level from amplification is unreasonable at present, compared to **673 (48.5%)** responders who indicated it is not unreasonable, and **55 (4%)** responders did not know.
- **658 (47%)** responders indicated they would support a ban of amplifiers, compared with **707 (51%)** responders who indicated they would not, and **26 (2%)** responders did not know.

6 RATIONALE

6.1 The rationale for this report stems from provisions under the Anti-social Behaviour, Crime and Policing Act 2014.

7 OTHER OPTIONS CONSIDERED

7.1 This report brings to the Cabinet alternative provisions under the Anti-social Behaviour, Crime and Policing Act 2014 that can prove effective in resolving noise nuisance complaints from busking.

7.2 Community Protection Notices (CPNs) provide an alternative enforcement option from provisions under the Environmental Protection Act 1990 or a PSPO. Initially a CPN warning letter is served upon an individual, specifying what the individual must do to achieve compliance. If the behaviour continues, then a CPN can be served which again specifies what the individual must do to achieve compliance. If there is a breach of the CPN then a fixed penalty notice can be served or criminal proceedings can be commenced. If convicted, the individual can be fined up to £2,500. Further information is available in Appendix B (page 19) to this report.

7.3 CPNs have been used in the interim period between the consultation and the determination of this report by both Council officers and Avon and Somerset Police. Three CPN warning letters and one CPN have been served since 9th March 2015. This course of action has been successful in achieving compliance from the individuals concerned.

7.4 The graph and table in Appendix C shows a comparison between the number of complaints received by the Council about busking in 2014 and 2015. The graph demonstrates the reduced number of complaints which have been received so far in 2015. It is considered that the approach to date of using CPN's and engaging with the Busker Stakeholder Group has been effective in reducing the negative impacts of busking in the city centre.

7.5 At this time a PSPO is not considered justifiable in light of the consultation responses which demonstrate that the statutory test of 'detrimental effect on the quality of life of those in the locality is persistent and unreasonable' has not been met. It is however, considered that the practice of issuing CPN warning letters and CPN's to individuals should continue, as it has proved successful, and that the situation should be kept under review and reported back to Cabinet in December 2015.

8 CONSULTATION

8.1 The consultation included the persons listed below:

- Ward Councillors;
- Cabinet;
- B&NES Services;
- Section 151 Finance Officer;
- Chief Executive; Monitoring Officer.

8.2 An online consultation was available through the Council's website, with a downloadable questionnaire. A draft consultation Public Space Protection Order was issued to interest groups and stakeholders.

8.3 In addition, a workshop event was held at the British Royal Literary and Scientific Institution on 25th February 2015 which was attended by Councillors, officers, stakeholders and residents and provided opportunity to ask questions and submit comments. Presentations were delivered by Cllr David Dixon, Andrew Cooper from the Bath Business Improvement District, Rev Edward Mason from Bath Abbey, Tim Harris from Avon & Somerset Constabulary, Jonny Walker and Jeremy Broun who represented the busking community. Approximately 30 people attended. Comments from this workshop are summarised on page 17 of Appendix A.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	<i>Cathryn Humphries 01225 477645 or Aled Williams 01225 396625</i>
Background papers	
Please contact the report author if you need to access this report in an alternative format	