



## **North Devon Council**

Report Date: Council: 12 January 2022

### **Topic: Pannier Market Public Spaces Protection Order**

Report by: Town Centre, CCTV and Pannier Market Manager

#### **1. INTRODUCTION**

- 1.1 The Council owns and operates Barnstaple Pannier Market, an iconic undercover market situated in the heart of Barnstaple town centre and contributing to the vitality of the town centre economy.
- 1.2 The Pannier Market contains a public right of way through the centre of the building, which historically has meant that the whole market hall has been permanently accessible at all hours.
- 1.3 This accessibility has enabled anti-social behaviour to occur in the Pannier Market overnight. Such behaviour has included criminal damage, the consumption of alcohol and drugs, littering, urinating, defecating and ball games leading to damage.
- 1.4 The Anti-Social Behaviour, Crime and Policing Act (2014) created provision for Public Spaces Protection Orders (PSPO's) to be made, thereby enabling local authorities to seek to prevent or restrict behaviour which is having a negative effect on communal well-being.
- 1.5 On 31<sup>st</sup> January 2018, the Council made a PSPO, in relation to the Pannier Market for a period of one year, forbidding a number of activities in the 'Restricted Area.' In order to ensure compliance with the terms of the order, provision was made for the public highway between Butchers Row and Market Street to be closed from 18.00 hours until 5.00 hours the following day through the operation of barriers.
- 1.6 On 16<sup>th</sup> January 2019, the PSPO made on 31<sup>st</sup> January 2018 was renewed for a period of 3 years by the Council, the PSPO having in effect ensured that the anti-social behaviour relating to the Pannier Market had ceased.
- 1.7 This report sets out the rationale for the proposal that North Devon Council now makes a further PSPO in relation to the Pannier Market for a period of 3 years, in identical terms.

#### **2. RECOMMENDATIONS**

- 2.1. That North Devon Council makes a further Public Spaces Protection Order for a period of 3 years in relation to the Pannier Market, Barnstaple, as per the Order attached at Appendix A.

### 3. REASONS FOR RECOMMENDATIONS

- 3.1. To restrict the gathering of individuals who frequently, by their lifestyle, resort to anti-social activity in the Pannier Market when it is not in operation.
- 3.2. To improve the quality of life for all in the vicinity.

### 4. REPORT

- 4.1 Barnstaple Pannier Market, housed in an iconic red brick market hall on Barnstaple's Butchers Row, is a key attraction for the town and locality, forming the cornerstone of the retail and culture offer in the town centre. The market trades at least 6 days a week for most of the year, and in addition hosts monthly Sunday events.
- 4.2 As the building has been accessible at all hours, there has been a long history of anti-social behaviour in the building overnight. Prior to January 2018, such behaviour had intensified over the years, with winter months in particular seeing an unprecedented level of anti-social activity.
- 4.3 Such activity was logged by the Barnstaple CCTV team and the Pannier Market manager, and included regular instances of:
  - Drug and alcohol possession and consumption
  - Vandalism and graffiti
  - Arson (in winter 2015 a homeless man in his sleeping bag was set alight by youths)
  - Vomit, urination and defecation, on occasion blocking the small drain grates (causing flooding etc)
  - Ball games causing damage, and thrown objects causing damage
  - Lights turned on, the electrical system 'hotwired'
  - Rough sleeping
  - Alarm activation
  - Extensive littering including needles, broken glass etc
- 4.4 The Public Spaces Protection Order is a creation of the Anti-social Behaviour, Crime and Policing Act 2014 which, according to the statutory guidance, is "designed to stop individuals or groups committing anti-social behaviour in a public space." Under the provisions, local authorities may seek to prevent or restrict behaviour which is having a negative effect on the communal well-being.
- 4.5 In pursuing a PSPO the 2014 Act states that a local authority should be satisfied on reasonable grounds that two conditions are met:
  - (a) Activities carried on in a public place have had a detrimental effect on the quality of life of those in the locality
  - (b) The effect of the activities is of a persistent or continuing nature, is such as to make the activities unreasonable, and justifies the restrictions imposed by the notice.
- 4.6 A PSPO may last for a period of up to 3 years. A PSPO may be extended (and more than once) if it deemed by the local authority to continue to be appropriate to do so.

4.7 The Anti-social Behaviour, Crime and Policing Act 2014 provides specifically for situations where a PSPO would restrict a public right of way, as would be the case in the Pannier Market. In such situations, the local authority is required to consider:

- The likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway
- The likely effect of making the order on other persons in the locality
- Where the highway constitutes a through route, the availability of a reasonably convenient alternative route

4.8 The Anti-social Behaviour, Crime and Policing Act 2014 sets out some key requirements as to the process for making a PSPO, including carrying out necessary consultation, necessary publicity and necessary notification with regard to the proposed PSPO.

4.9 In the case of the Pannier Market, the proposed PSPO, attached at Appendix A, would prohibit certain activities. A plan of the area subject to the proposed PSPO is attached at Appendix B.

4.10 Prior to the introduction of the 1 year PSPO on 31<sup>st</sup> January 2018, North Devon Council took the following steps in arriving at the terms of the Order:

- (a) Collated evidence of incidents within the Pannier Market, attached at Appendix C.
- (b) Considered the likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway; and on other persons in the locality. With regard to the Pannier Market, it appears there are no other occupiers of premises directly adjacent to the right of way proposed to be restricted, as the area to be restricted falls only within the Pannier Market. However, for the avoidance of doubt and to ensure any effects of making an order are properly considered, North Devon Council has sought to understand any effects on occupiers and businesses in the vicinity through consultation.
- (c) Considered reasonably convenient alternative routes. Access to the Butchers Row retail units and the retail and restaurant businesses on Market Street has been considered. All these premises are directly accessible by using Butchers Row or Market Street respectively. The plan at Appendix D indicates these locations and in addition the walking routes to the nearest car parks, demonstrating the existence of convenient alternative routes.
- (d) Notified and consulted with key stakeholders and the public for a period of 12 weeks on two separate occasions, and reviewed the consultation responses before finalising the terms of the PSPO.

4.11 In relation to the proposal to introduce a new PSPO, responses have been invited from key stakeholders and the public in the period 3<sup>rd</sup> December 2021 until 7th January 2022. The responses are attached at Appendix E.

4.12 One correspondent in the past has raised concerns as to the highway being obstructed by the doors or by the encroachment of stalls. It is accepted that

there have been a limited number of occasions when this has inadvertently occurred, such as on 9<sup>th</sup> May 2020 when one of the doors could not be opened at 5.00 am, because it had come off its runners.

- 4.13 Moreover, there was a period during the first 'national lockdown,' which was put in place by the Government in an attempt to arrest the rapid spread of the Covid-19 virus, when the doors were left closed by the Council in response to the ministerial strategy that rough sleepers and vulnerable persons should be discouraged from congregating in street encampments. At the end of March 2020, the Council was compelled to close the Pannier Market for business during the day to ensure that the lockdown restrictions were effective; accordingly, the Council decided to protect the integrity of the building by leaving the gates closed on a 24 hour basis at the same time as utilising significant resources to accommodate rough sleepers.
- 4.14 The full closure ended on 5<sup>th</sup> May 2020. Since May 2020, the regime of closing the doors only between 6.00 pm and 5.00 am has been adhered to strictly.
- 4.15 The proposed PSPO reflects the considerations as outlined at 4.10, and the points made by consultees both previously and in relation to the current period of consultation. The absence of significant opposition to the proposal suggests that the public in general, and stakeholders such as the market traders in particular, are very comfortable with the existence of a new PSPO.
- 4.16 It has to be accepted that there is no recent evidence of anti-social behaviour which has taken place between 6.00 pm and 5.00 am in the Pannier Market, but it is submitted that this reflects the success of the existing and previous PSPO's in the prevention of such behaviour. By comparison, there is ample evidence that instances of public disorder and street drinking, in breach of the PSPO which applies to the town centre area, are rife and on the increase, and would inevitably transfer to the Pannier Market if the PSPO permitting the closure of the gates between 6.00 pm and 5.00 am were not to be renewed. For example, NDC has conducted 7 prosecutions for breach of the town centre PSPO in 2020 and 2021, and there are 3 pending prosecutions, whilst in the same period there have been 3 prosecutions for breaches of Community Protection Notices which, amongst other things, prohibit individuals from possessing and consuming alcohol in the town centre.
- 4.17 Alternative options – there are few alternative options. We are exploring opportunities to subdivide the Pannier market as part of the Future High Street Fund project, which could include providing a corridor through the market; however, this will require consultation with Historic England and the wider public to consider the implications on the operations of the market. In any event, any such solution would not be in place until 2024.

## 5. RESOURCE IMPLICATIONS

5.1. There are no new resource implications from the renewal of the PSPO.

5.2 There is a wider public benefit to preventing the anti-social behaviour occurring in the Pannier Market, as public costs related to the impacts of 24/7 accessibility of the building – policing resources, cleaning, repairs etc – have largely be eradicated.

## 6. EQUALITIES ASSESSMENT

6.1. There are no equality implications anticipated as a result of this report.

## 7. CONSTITUTIONAL CONTEXT

7.1. Article of Part 2, Article 4.5.13

## 8. STATEMENT OF CONFIDENTIALITY

8.1. This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

## 9. BACKGROUND PAPERS

9.1. The following background papers were used in the preparation of this report:

- Pannier Market Incident Log
- Consultation responses
- Anti-social Behaviour, Crime and Policing Act 2014

## 10. STATEMENT OF INTERNAL ADVICE

10.1. The author Hannah Harrington confirms that advice has been taken from all appropriate Councillors and Officers.