

## EXECUTIVE MEMBER FOR NEIGHBOURHOOD SAFETY

<b>Date:</b> Tuesday 15th November, 2022
<b>Time:</b> 1.00 pm
<b>Venue:</b> Oberhausen room

### AGENDA

1. TS1 PSPO Extension

3 - 16

Charlotte Benjamin  
Director of Legal and Governance Services

Town Hall  
Middlesbrough  
Wednesday 9 November 2022

### MEMBERSHIP

Councillors , , TA Grainge

### Assistance in accessing information

Should you have any queries on accessing the Agenda and associated information please contact Susie Blood, 01642 729645, [susie\\_blood@middlesbrough.gov.uk](mailto:susie_blood@middlesbrough.gov.uk)

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<p><b>MIDDLESBROUGH COUNCIL</b></p>	
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<p><b>Report of:</b></p>	<p>Geoff Field, Director of Environment and Community Services Tony Grainge, Executive Member for Neighbourhood Safety</p>
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<p><b>Submitted to:</b></p>	<p>Executive</p>
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<p><b>Date:</b></p>	<p>15 November 2022</p>
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<p><b>Title:</b></p>	<p>Results of consultation and proposal to extend and vary the TS1 Public Space Protection Order</p>
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<p><b>Report for:</b></p>	<p>Decision</p>
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<p><b>Status:</b></p>	<p>Public</p>
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<p><b>Strategic priority:</b></p>	<p>Crime and anti-social behaviour</p>
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<p><b>Key decision:</b></p>	<p>No</p>
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<p><b>Why:</b></p>	<p>Decision does not reach the threshold to be a key decision</p>
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<p><b>Urgent:</b></p>	<p>No</p>
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<p><b>Why:</b></p>	
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<p><b>Executive summary</b></p>
<p>This report outlines the results of the formal consultation which was recently completed in order to extend and vary the current Public Space Protection Order (PSPO) for the TS1 area of Middlesbrough.</p> <p>In order to extend and vary a PSPO, it is necessary to follow a statutory consultation process. It is recommended that Executive reviews the outcome of the survey results, which support the extension and variation and decides to renew the current order with the proposed variation for an additional 3 years.</p>

## **Purpose**

1. That Executive approve the extension and variation of the current Public Space Protection Order that covers the TS1 area following the results of a recent public consultation (“the TS1 PSPO”).

## **Background and relevant information**

2. The Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) came into force on 1st October 2014 and introduced streamlined tools and powers to address anti-social behaviour which include Public Spaces Protection Orders.
3. Following approval by the Executive, the TS1 PSPO was made and came into force on the 26 November 2019 for a period of three years which prohibits a number of activities within the TS1 area, summarised as follows:
  - people urinating or defecating
  - people spitting saliva or products
  - people refusing to stop drinking alcohol when requested by the police or authorised officers
  - People failing to keep dogs on leads, failing to dispose of dog waste and being in charge of more than four dogs at the same time
  - people dropping litter
  - people being verbally abusive and causing harassment alarm or distress to others
  - people using skateboards, scooters, skates, bikes in a manner that causes damage to property of nuisance and annoyance to others
  - people ingesting smoking inhaling injecting intoxicating substances
  - Groups of people congregating in a manner likely to cause harassment alarm or distress to others
  - people persistently begging
4. The TS1 PSPO may not have effect for longer than three years and expires on the 26 November 2022, but may be extended under Section 60 of the Act.
5. To extend the TS1 PSPO the Executive must be satisfied, on reasonable grounds, that the extension is necessary to prevent the occurrence or recurrence of the activities prohibited in the Order or to prevent an increase in frequency or seriousness of those activities if the Order was to expire.
6. Section 61 of the Act also permits PSPOs to be varied by the alteration, removal or addition of a restriction, prohibition or requirement in an Order. It is proposed that the TS1 PSPO is varied to prohibit the following additional activities:
  - a. Rummaging in bins

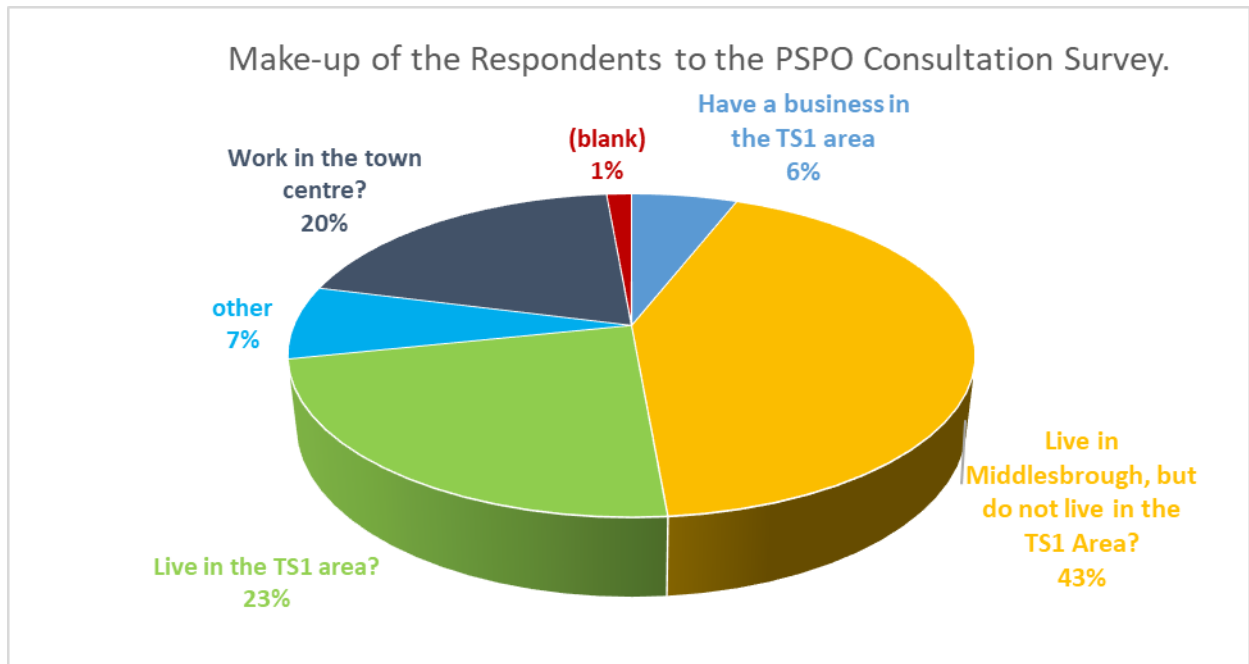
- b. Appropriating monies for charitable or other purposes without a licence including asking members of the public to sign up to schemes
7. Under Sections 61 and 59 of the Act, in order to vary the TS1 PSPO the Executive must be satisfied, on reasonable grounds, of the following conditions:
  - a. That the activities set out above are being carried out in public places within the TS1 area and are having or likely to have a detrimental effect on those in that locality, and
  - b. That the effect of likely effect of those activities is or is likely to be of a persistent or continuing nature such as to make those activities unreasonable and, therefore, that the prohibition of those activities in the Order is justified.
8. In accordance with the requirements of the Act a formal consultation has been carried out about the proposal to extend and vary the TS1 PSPO.
9. The draft Middlesbrough Borough Council TS1 Area of the Borough, Extension and Variation, Public Spaces Protection Order 2022 which sets out the detailed provisions relating to the proposed extension and variation and which also formed part of the consultation documents is attached to his report.

### **Consultation process**

10. The 5 week consultation process commenced on 28<sup>th</sup> September 2022 and closed at midnight on 26<sup>th</sup> October 2022. We asked local residents and businesses to provide their views by:
  - Completing a short online questionnaire
  - Sending feedback via email to [middlesbrough.gov.uk/pspo](mailto:middlesbrough.gov.uk/pspo)
  - Completing a copy of the questionnaire which was made available at Streets Ahead on Parliament Road, Newport Hub on Union Street or at Central Library
  - Information was also circulated via the staff/Members e-bulletin
  - Promoted via MBC's social media pages
  - Information was also circulated to town centre businesses via the Town Centre Management Team
11. The results of the consultation have shown that there is strong support for an extension and variation of the TS1 PSPO.

## Consultation results

The total number of respondents to the survey was 286. The make-up of the respondents can be seen below.

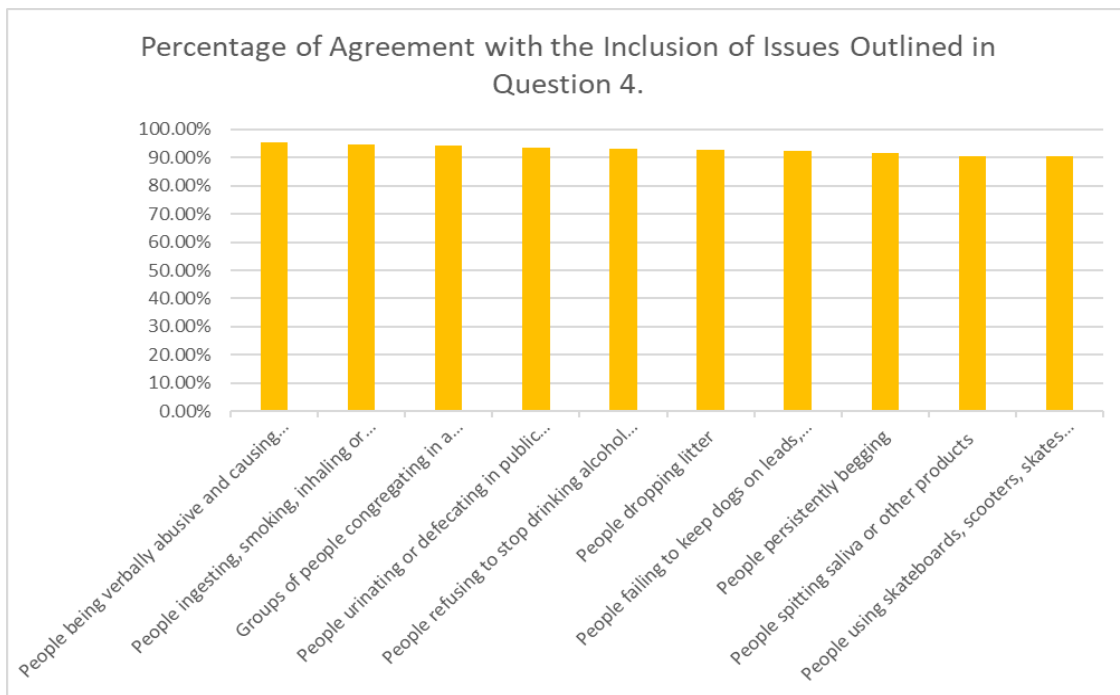


Out of all respondents 97.55% were either very concerned, concerned, or a little concerned about antisocial behaviour in the TS1 area, with only 2.45% either being not at all concerned, or not selecting a response.

In response to question 3 – Do you agree that the PSPO should be extended? The following results were obtained:

- Overall 95.1% agreed that the PSPO should be extended, and 4.9% either disagreed or chose not to answer.
- 94.12% of respondents who have a business in the TS1 area agreed the PSPO should be extended,
- 96.97% of people who live in the TS1 area agreed the PSPO should be extended,
- And 92.86% of people who responded as working in the Town Centre agreed the PSPO should be extended.

Question 4 of the PSPO consultation survey outlined the current issues that are included in the PSPO and gave the opportunity for respondents to agree or disagree with the continued inclusion of said issues. The percentage of respondents who agreed per issue can be seen in the graph below.

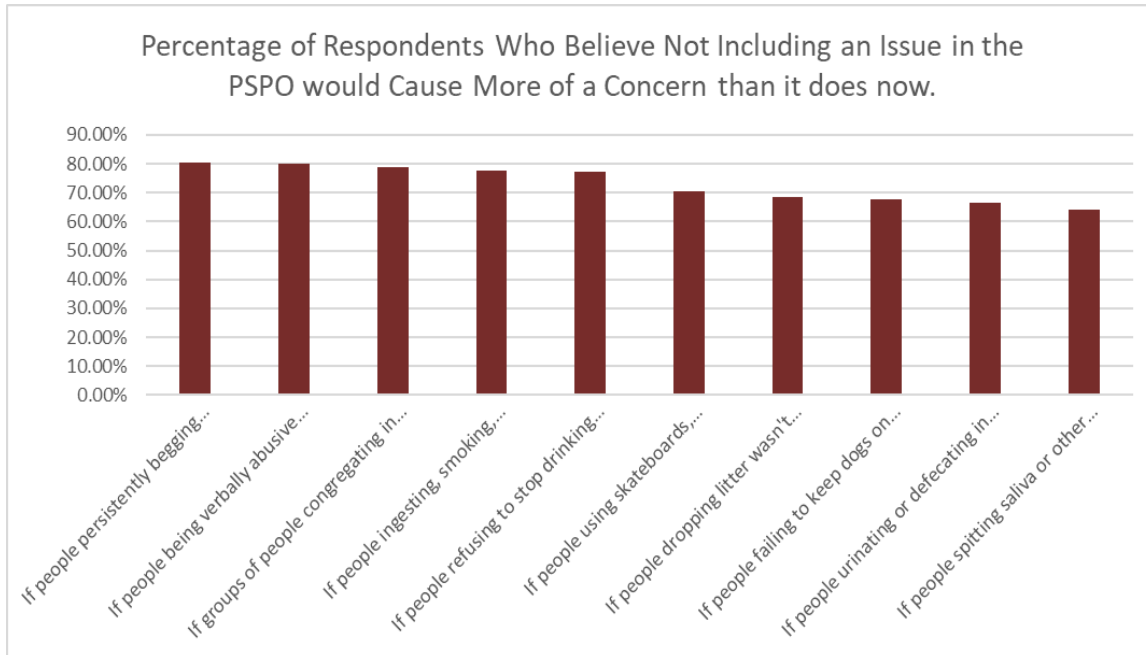


A total of 10 issues were outlined and over 90% of respondents agreed that each issue should still be included in the PSPO.

Respondents were also asked to comment on each issue and say if not included in the PSPO if they felt it would:

- Become more of a concern than it is now
- Cause the same concern as it does now
- Become less of a concern than it is now
- Not an issue in the TS1 area
- Or other.

The below graph shows each issue and the percentage of all respondents who thought the issue would become more of a concern than it is now if it was not included in the PSPO.



For all 10 issues more than 60% agreed that for each one that if not included it would become more of a concern than it already is. People spitting saliva or other products had the least percentage of respondents agreeing at 63.9%, and people persistently begging received the highest percentage of respondents agreeing it would cause more of an issue with 80.4%. The next two issues that respondents felt if not included would cause more of a concern were; people being verbally abusive, and causing ASB (80%), and people congregating in a manner likely to cause ASB (79%).

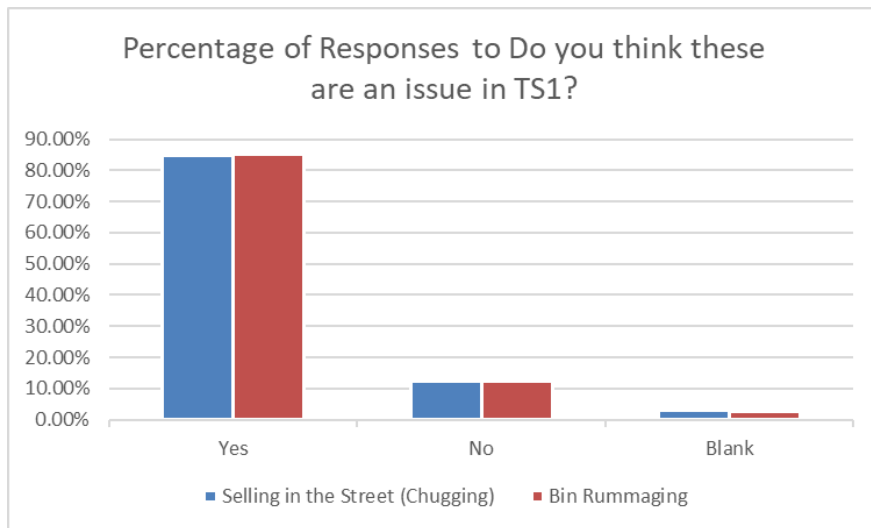
Respondents were also given the opportunity to leave comments, some of the themes are set out below;

- A lot of the comments are further views on the agreement on the main issues i.e. begging, alcohol, drugs, and youth ASB.
- Consideration of the extension to other areas that face similar issues with a lot of respondents also suggesting Hemlington as an area to have a PSPO.
- Police and Warden Presence needs to be increased, with more proactive patrols, possibly some work around communication of enforcement.
- Similar to the previous point, a lot of further comments were the belief that the current PSPO isn't making a difference as residents are not seeing it being enforced or don't believe the continuation would make a difference.
- The overall stigma of the TS1 area respondents felt was a 'no go' area, which is declining and all the issues mentioned within the survey are not improving and that there is a fear of going into the TS1 area due to the issues.

The proposed variation to the existing PSPO were to add in bin rummaging and selling in the street (chugging). In relation to these variations the respondents were asked to

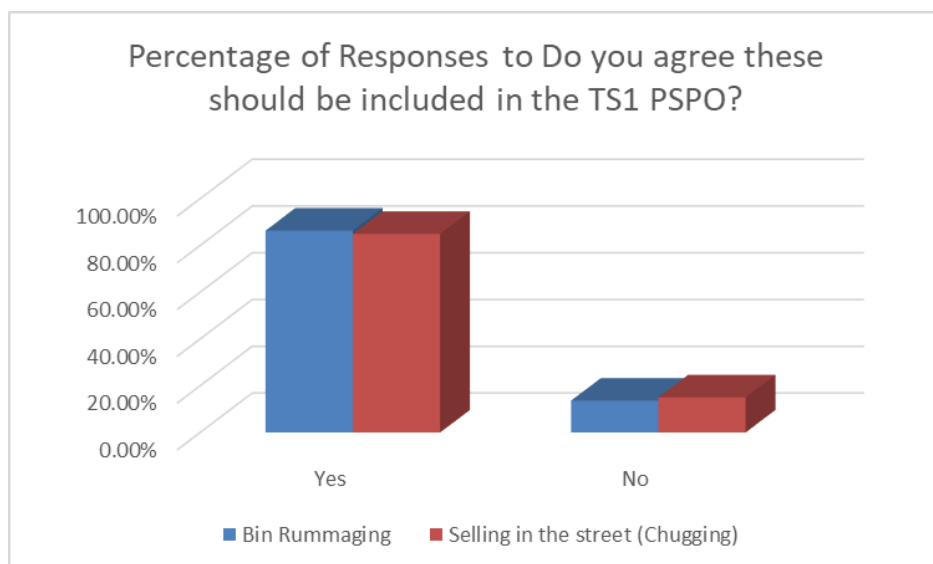


answer 3 questions. The first question was did they think these amendments were an issue within TS1?



Out of the 286 respondents 84.62% agreed Chugging is an issue, and 84.97% agreed bin rummaging is an issue within the TS1 area. Furthermore 15.38% of respondents disagreed or chose not to answer in relation to this question concerning chugging, and similarly 15.03% disagreed or chose not to answer in relation to bin rummaging being an issue in TS1.

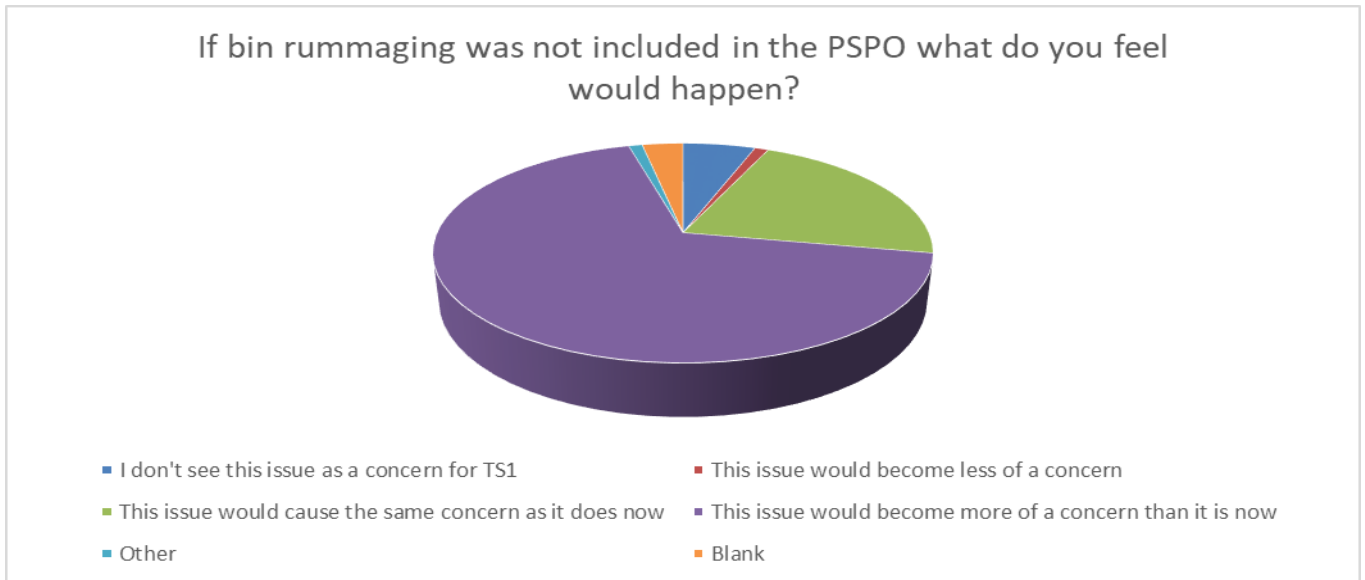
The next question the respondents were asked is if they believed the issues should be covered and included in the TS1 PSPO? As with the previous question 86.36% agreed that bin rummaging should be included, and 84.97% agreed that chugging should be included in the TS1 PSPO.



When the respondents were asked what they felt would happen if each issue were not included in the PSPO the following was stated.

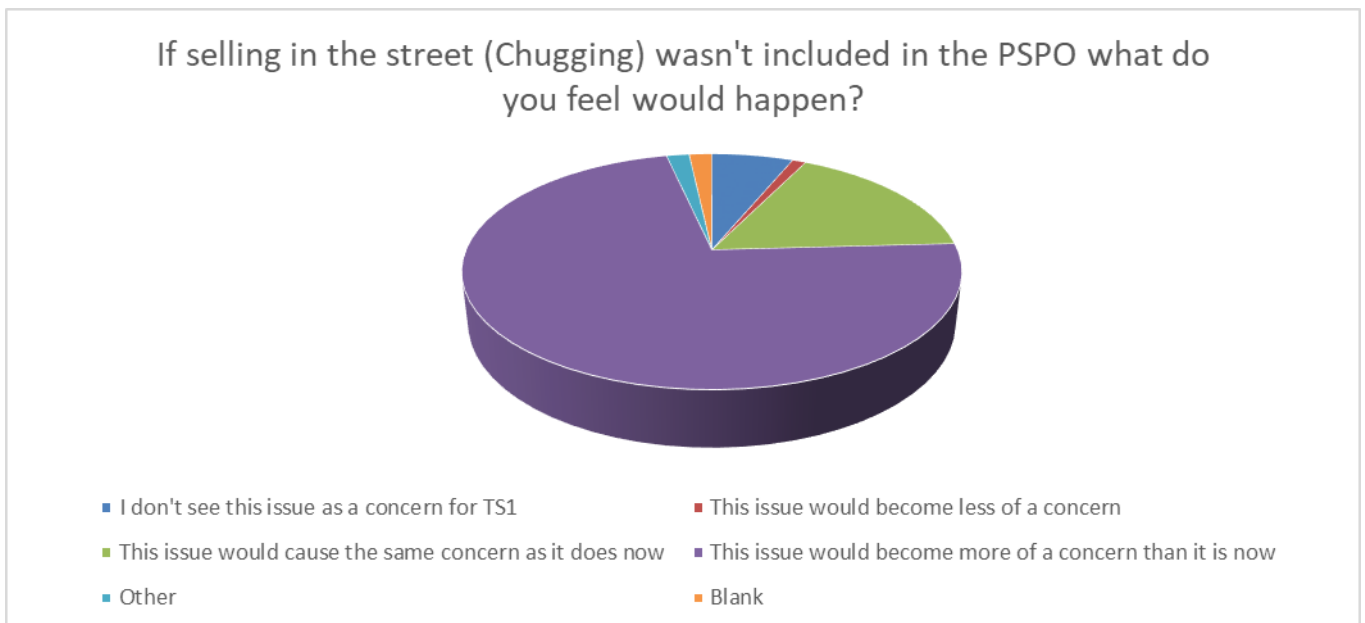
In relation to bin rummaging:

- 67.83% thought it would cause more of an issue than it does now
- 21.33% said it would cause the same issue that it does now
- And 5.59% stated they don't see this as an issue for TS1.



In relation to Selling in the street (Chugging):

- 72.38% thought it would cause more of a concern than it does now
- 16.78% said it would cause the same concern as it does now
- And 6.29% stated they don't see this as an issue for TS1.



The findings from the consultation overwhelmingly support

- 1) the extension of the current PSPO and
- 2) the variation to prohibit rummaging in bins and collections for charities / chugging.

### **What decision(s) are being recommended?**

That the Executive:

12. Is satisfied that the conditions set out in paragraph 5 of the report have been made out and the TS1 PSPO should be extended for a period of three years on the terms set out in the draft order annexed to this report

13. Is satisfied that the conditions set out in paragraph 7 of the report have been made out and that the TS1 PSPO should be varied to prohibit the following activities on the terms as set out in the draft order annexed to this report.

- a. Rummaging in bins
- b. Appropriating monies for charitable or other purposes without a licence including asking members of the public to sign up to schemes

### **Rationale for the recommended decision(s)**

14. Following the results of the public survey, it is evident that there is sufficient support from both local residents and the business community that the conditions have been met to extend and vary the Order.

### **Other potential decision(s) and why these have not been recommended**

15. That the PSPO is not extended. This is not recommended as there is still a high level of crime and anti-social behaviour and which include the prohibited activities within the TS1 area. The TS1 PSPO provide powers for the council to enforce the prohibitions and take action by way of a warning, fine or prosecution against any person breaching the Order. If the Order is not extended it is likely those prohibited activities will recur or increase in frequency or seriousness and there will be no additional powers of enforcement to aid prevention provided for in the TS1 PSPO.

16. That the PSPO is extended but the variation is not granted. This is not recommended as it is likely that the activities of rummaging in bins and nuisance approaches to members of the public for money or subscriptions to charities or schemes will continue to and persistently occur being detrimental to people in the locality. There will be no additional powers to prevent those activities or enforce against the carrying out of those activities.

### **Impact(s) of the recommended decision(s)**

#### ***Legal***

17. Legal have been consulted during the production of this report

### ***Strategic priorities and risks***

18. There is a risk of antisocial behaviour increasing if the PSPO is not extended as there will be fewer consequences for these actions.

### ***Human Rights, Equality and Data Protection***

19. Following the consultation, an equality impact assessment will be completed to assess the impact of any measures on the community. Under Section 72 of the Act, when deciding whether to extend and vary the TS1 PSPO, the Council must have regard to articles 10 (Freedom of Expression) and 11 (Freedom of Assembly and Association) of the Convention contained in Schedule 1 to the Human Rights Act 1998. It is not considered that the proposals set out for the operation of the TS1 PSPO will infringe on any of the above rights and if there is any infringement it is proportionate and necessary in order to prevent anti-social behaviour and crime in that area.

### ***Financial***

20. The cost of the consultation was minimal for the promotional materials (less than £5000). A financial contribution will be needed if the PSPO extension is supported. This is estimated to be approx. £5,000 and it will be covered via existing budgets.

**Contact:** Marion Walker, Head of Stronger Communities  
**Email:** marion\_walker@middlesbrough.gov.uk

ANIT-SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014 PART 4 SECTIONS  
59, 60 AND 61

MIDDLESBROUGH BOROUGH COUNCIL

TS1 AREA OF THE BOROUGH

EXTENSION AND VARIATION - PUBLIC SPACES PROTECTION ORDER 2022

1. This Order is made by Middlesbrough Borough Council (“the Council”) under Section 60 and Section 61 of the Anti-Social Behaviour Crime and Policing Act 2014 (“the Act”) and shall be cited as Middlesbrough Borough Council TS1 Area of the Borough Extension and Variation Public Spaces Protection Order 2022 (“the Extension and Variation Order”).
2. On the 28 October 2019 Middlesbrough Borough Council made the Middlesbrough Borough Council Public Spaces Protection Order TS1 Area of the Borough which was cited as the Middlesbrough Council TS1 PSPO (hereinafter referred to as the “TS1 PSPO”).
3. The TS1 PSPO came into effect on the 26 November 2019 and was to continue in force for a period of three years.
4. The Extension and Variation Order shall come into effect on the 25 November 2022 and will continue in force for a period of three years.
5. The Extension and Variation Order shall be read with and form part of the TS1 PSPO and will extend and vary the provisions and requirements of the TS1 PSPO for a period of three years commencing on the 25 November 2022.

EXTENSION

6. The Council in making the Extension and Variation Order under Section 59 of the Act is satisfied on reasonable grounds that extension of the TS1 PSPO for a period of three years is necessary to prevent
  - a) occurrence or recurrence after its expiration of the activities identified in the TS1 PSPO as the prohibitions and restrictions set out in Article 1 of the TS1 PSPO, or
  - b) an increase in the frequency or seriousness of those activities identified in the TS1 PSPO as the prohibitions and restrictions set out in Article 1 of the TS1 PSPO after its expiration.
7. The activities identified in the TS1 PSPO as the prohibitions and restrictions set out in Article 1 of the TS1 PSPO summarised in Article 8 below had a detrimental effect on the quality of life of those in the locality of the TS1 area of the Borough, were likely to be of a persistent and continuing nature, were likely to make those activities unreasonable and therefore prohibitions and restrictions imposed by the TS1 PSPO were justified.

8. The activities identified in the TS1 PSPO as the prohibitions and restrictions set out in Article 1 of the TS1 PSPO are summarised as follows:

- 8.1 people urinating or defecating in public places
- 8.2 people spitting saliva or products
- 8.3 people refusing to stop drinking alcohol when requested by the police or authorised officers in public places otherwise than covered by an authorisation under the Licensing Act 2003
- 8.4 People failing to keep dogs on leads, failing to dispose of dog waste and being in charge of more than four dogs at the same time
- 8.5 people dropping litter
- 8.6 people being verbally abusive and causing harassment alarm or distress to others
- 8.7 people using skateboards, scooters, skates, bikes in a manner that causes damage to property of nuisance and annoyance to others
- 8.8 people ingesting smoking inhaling injecting intoxicating substances
- 8.9 Groups of people congregating in a manner likely to cause harassment alarm or distress to others
- 8.10 people persistently begging.

## VARIATION

9. In accordance with Sections 61 and 59 of the Act, the Council is satisfied the activities listed below are being carried on in the TS1 area of Middlesbrough. It is satisfied that those activities are having a detrimental effect on the quality of life of those in the locality of the TS1 area of the Borough, are likely to be of a persistent and continuing nature and as such are likely to make those activities unreasonable.

- 9.1 Rummaging in bins.
- 9.2 Appropriating monies for charitable or other purposes without a licence including asking members of the public to sign up to schemes.

10. The Council is satisfied that the TS1 PSPO is varied to include the following prohibitions in relation to the TS1 area and is satisfied they are reasonable to impose to prevent the detrimental effect of those activities from continuing, occurring or recurring or to reduce that detrimental effect or to reduce the risk of such continuance, occurrence or recurrence.

- 10.1 No person shall rummage or search through any bin or similar receptacle in a public place.
- 10.2 No person shall approach a member of the public or passers-by in a public place to ask for subscriptions or donations for charitable or similar purposes or schemes without having a licence or permit from the Council to do so.

## FAILURE TO COMPLY WITH THE PROHIBITIONS AND RESTRICTIONS IN THE TS1 PSPO

11. If a person without reasonable excuse fails to comply with TS1 PSPO or the Extension and Variation Order he/she commits an offence under Section 67 of the Act and is liable on summary conviction to a maximum penalty of a level 3 fine. A person does not commit an offence by failing to comply with the TS1 PSPO or the Extension and Variation Order if the Council did not have the power to include the prohibition or requirement breached by that person.
12. Under Section 63 of the Act, if a person without reasonable excuse consumes alcohol in breach of the prohibition in the TS1 PSPO or intends to consume alcohol in which doing would be a breach of such a prohibition a police officer or authorised officer can require that person to not consume alcohol or surrender the what is reasonably believed to be alcohol or container for alcohol which can be disposed of. The police officer or authorised person must explain that failing to comply without reasonable excuse is an offence. If a person does fail to comply with such a requirement he commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
13. The Council through its Authorised Officers may issue a fixed penalty notice for a breach of TS1 PSPO and / or the Extension and Variation Order for a sum of up to £100 under Section 68 of the Act and if paid within the period of time set out in the Fixed Penalty Notice the person can avoid criminal liability under Section 67 as set out above.

### Challenging the Validity of the Order

14. An interested person (being a person who lives in the restricted TS1 area set out in in the TS1 PSPO or who regularly works or visits that area) may apply to the High Court to question the validity this variation to the Order on the following grounds: that the local authority did not have power to make the variation, or to include particular prohibitions or requirements imposed by the variation or that the requirements of the legislation has not been complied with.
15. The application must be made within six weeks form the date the Order was made.

GIVEN UNDER the Common Seal of the Council this xxxxxxxxxx day of xxxxxxxx

THE COMMON SEAL of the  
Council of the Borough of Middlesbrough  
Was hereunto affixed in the presence of

Authorised Officer

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