



NORTHAMPTON
BOROUGH COUNCIL

CABINET REPORT

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| Report Title | CONSULTATION ON A PUBLIC SPACE PROTECTION ORDER FOR THE ALLEYWAY CONNECTING DUNSTER STREET AND ST. MICHAEL'S ROAD. |
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AGENDA STATUS: PUBLIC

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|------------------------------------|-------------------------------|
| Cabinet Meeting Date: | 9 September 2020 |
| Key Decision: | No |
| Within Policy: | Yes |
| Policy Document: | No |
| Directorate: | Community Safety & Engagement |
| Accountable Cabinet Member: | Cllr Anna King |
| Ward(s) | Castle |

1. Purpose

- 1.1 To seek authority to undertake a statutory consultation about potentially making a Public Spaces Protection Order (“PSPO”), as set out in sections 59 to 68 of the Anti-Social Behaviour, Crime & Policing Act 2014 (“the Act”), with regard to an alleyway which is part of the public highway between Dunster Street and St Michael’s Road.

2. Recommendations

That Cabinet:

- 2.1 Delegates authority to the Chief Executive to undertake a 12 week statutory public consultation in the terms set out in Appendix 3 on the proposal to make a PSPO that allows gating the alleyway that links Dunster Street and St Michael’s Road, as shown on the map at Appendix 1.

- 2.2 Agrees to receive a further report, following completion of the statutory public consultation, which considers any representations received and, if appropriate, seeks approval of a PSPO as per para. 2.1.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The Act provides Local Authorities and the Police with the powers to tackle anti-social behaviour and provide better protection for victims.
- 3.1.2 PSPOs are designed to stop all individuals, or a specific group of persons, committing anti-social behaviour in a public space. The criteria that must be satisfied when considering whether to make a PSPO is whether a particular activity or activities has or is likely to have a detrimental effect on the quality of life of those in the locality and that the activity is, or is likely to be, persistent or continuing in nature. The activity must also be “unreasonable” and any restriction must be justified.
- 3.1.3 For the proposed area to be restricted, there is a requirement for the Council to undertake a statutory public consultation exercise with the following:
- (a) The chief officer of police, and the local policing body for the area;
 - (b) Whatever community representatives the local authority thinks it appropriate to consult;
 - (c) The owner or occupier of land within the area;
 - (d) The parish council or community council (if any) for the area; and
 - (e) The county council (if any) for the area.
- 3.1.4 PSPO’s provide Councils with a flexible power to implement local restrictions to address a range of anti-social behaviour issues in public places in order to prevent future problems.
- 3.1.5 It is important that PSPO’s are used proportionately and that they are not seen to be targeting behaviour of the children/young people where there is a lack of tolerance and understanding by local people.
- 3.1.6 A PSPO can be made for a maximum of three years. The legislation provides for an Order to be extended at the end of the period, but only for a further period of up to three years. However, Orders can be extended more than once. Local Authorities can increase or reduce the restricted area of an existing Order, amend or remove a prohibition or requirement, or add a new prohibition or requirement. They can also discharge an Order. The variation or discharge of an Order are also subject to statutory consultation requirements.

- 3.1.7 Enforcement may be shared between the Council and the Police. Breach of a PSPO is a criminal offence which can result in the issuing of a Fixed penalty Notice (FPN) or a prosecution resulting in a fine of up to £1,000 on conviction. Enforcement can be undertaken by Council Officers, any person designated by a local authority for the purpose of issuing fines for breaches of a PSPO and Police Officers.
- 3.1.8 Before making or renewing an Order, the Council must notify people who are potentially affected by the proposed Order and notify them of how long they have to make representations. Officers will then consider any representations made with the intention of bringing a report back to Cabinet.
- 3.1.9 The consultation will last 12 weeks and will be carried out on Survey Monkey via the Council's website. Adjacent properties, businesses and local residents' groups will be directly contacted to make them aware of the proposed order. Others will be notified via the Council's website, Facebook and Twitter. Posters will also be put up on-site inviting representations.

3.2 Issues

- 3.2.1 The alleyway between Dunster Street and St Michael's Road is part of the public highway and has been a hotspot for drug dealing, fly tipping and anti-social behaviour for many years. In the past several recommendations were made for gating this alleyway, but were not viable due to previous legislation making it cost prohibitive. However, the issues remain and since the introduction of the Act, gating of part of public highway is permitted by way of PSPO, simplifying the process and significantly reducing the financial outlay.
- 3.2.2 The alleyway has been brought to the attention of the Neighbourhood Police Team repeatedly for drug dealing and regularly provides a cut through for suspects making a quick exit on foot. Local Police Community Support Officers have also reported witnessing suspected drug dealing taking place in the alleyway.
- 3.2.3 The alleyway allows easy pedestrian and cycle access from St Michael's Road through to Dunster Street and vice versa, making it an ideal place for fly tippers to deposit bags of controlled waste and white goods out of site.
- 3.2.4 In order to make a PSPO prohibiting access to the alleyway, the Act states that the Council needs to consult with anyone who could legitimately use it as well as those who live nearby.
- 3.2.5 A PSPO can only be made for a period of up to 3 years. At any time before expiry the Council can extend a PSPO by up to 3 years, provided it follows the statutory consultation requirements for doing so.

3.2 Choices (Options)

3.3.1 Do nothing. This is not an option that would meet the needs of the wider community and address the anti-social behaviour issues and criminal activities that are being experienced on a regular basis and is **not recommended**.

3.3.2 Authorise the Chief Executive to undertake a statutory consultation regarding the making of a PSPO to restrict access to the alleyway as per para. 2.1 and agree to receive a further report once the consultation period has ended and any replies have been considered, as per para. 2.2. This choice is **recommended**.

Gating the alleyway between Dunster Street and St. Michael's Road would take away a hot spot for street drinking, drug dealing, public urination and fly tipping and remove a place with extremely limited natural surveillance for other criminal activities. Legitimate pedestrian users of Dunster Street can use the alternative route of Alcombe Terrace/Alcombe Road/Grove Road to access Kettering Road.

3.3.3 However, there will be an initial financial outlay for planning permission and the installation of gates which will be used to restrict access, but this will be addressed in the further report following consultation, should Cabinet agree to receive one.

4. Implications (including financial implications)

4.1 Policy

4.1.1 The approach supports the multi-agency Countywide Anti-Social Behaviour Policy that Northampton Borough Council is signed up to.

4.2 Resources and Risk

4.2.1 None at this stage.

4.3 Legal

4.3.1 A PSPO has fixed penalty notice powers attached and would also have the potential to enhance local control over a range of local anti-social behaviour issues. They can remain in place for 3 years and then can be renewed if a further Order is required. Any PSPO ultimately made by Northampton Borough Council will probably remain in force after 31st March 2021 as part of interim arrangements that are likely to be approved by Government.

4.3.2 A PSPO can be made by a Local Authority under section 59 of the Act if satisfied on reasonable grounds that two conditions are met. These are that;

- (i) Activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality,

- (ii) It is likely that activities will be carried on in a public place within that area and that they will have such an effect and

that the effect of the activities is, or is likely to be, of a persistent or continuing nature such as to make the activities unreasonable and therefore justifies the restrictions imposed by the notice.

- 4.3.3 Under the Act there is a requirement for the Council to carry out a statutory consultation with the local Police force, whatever community representatives the Local Authority thinks it appropriate to consult and any owner or occupier of land within the proposed restricted area.
- 4.3.4 The making of a PSPO could be challenged in the High Court by any person directly affected within 6 weeks of the making of the Order. A challenge can be made on the basis that the Council did not have the power to make the order, that the particular prohibitions or requirements are unnecessary or that the order is defective.
- 4.3.5 When making a PSPO the Council must have particular regard to the rights of freedom of expression and freedom of assembly as set out in the European Convention on Human Rights, although this is not a requirement that must be satisfied when considering whether to consult about a proposal to make a PSPO.

4.4 Equality and Health

- 4.4.1 Incidents of ASB will continue to be dealt with in line with the Council's equalities framework should any PSPO eventually be made.
- 4.4.2 These legislative changes are designed to have a significant community impact in preventing and limiting anti-social behaviour.
- 4.4.3 An Equality Impact Assessment has been carried out. See Appendix 2.

4.5 Consultees (Internal and External)

- Head of Community Safety & Engagement, NBC
- Legal Services, NBC
- Environmental Health & Licensing Manager, NBC
- Community Safety Partnership Manager
- Northants Police
- Cabinet Member for Community Safety, NBC
- Northamptonshire County Council
- Northants Fire Service
- Local Residents groups

4.6 How the Proposals deliver Priority Outcomes

4.6.1 One of the Council's priorities is "invest in safer, cleaner neighbourhoods" and the consultation concerning a possible PSPO has the potential to contribute towards this priority.

4.7 Other Implications

4.7.1 The Council's website and social media channels will be used to undertake the statutory consultation.

5. Background Papers

5.1 Anti-Social Behaviour, Crime & Policing Act 2014.

5.2 Anti-Social Behaviour, Crime and Policing Act 2014: Reform of Anti-Social Behaviour Powers Statutory Guidance for Frontline Professionals.

Appendices

Appendix 1 – Map showing the Dunster Street/St Michael's Road alleyway and the alternative route to Kettering Road.

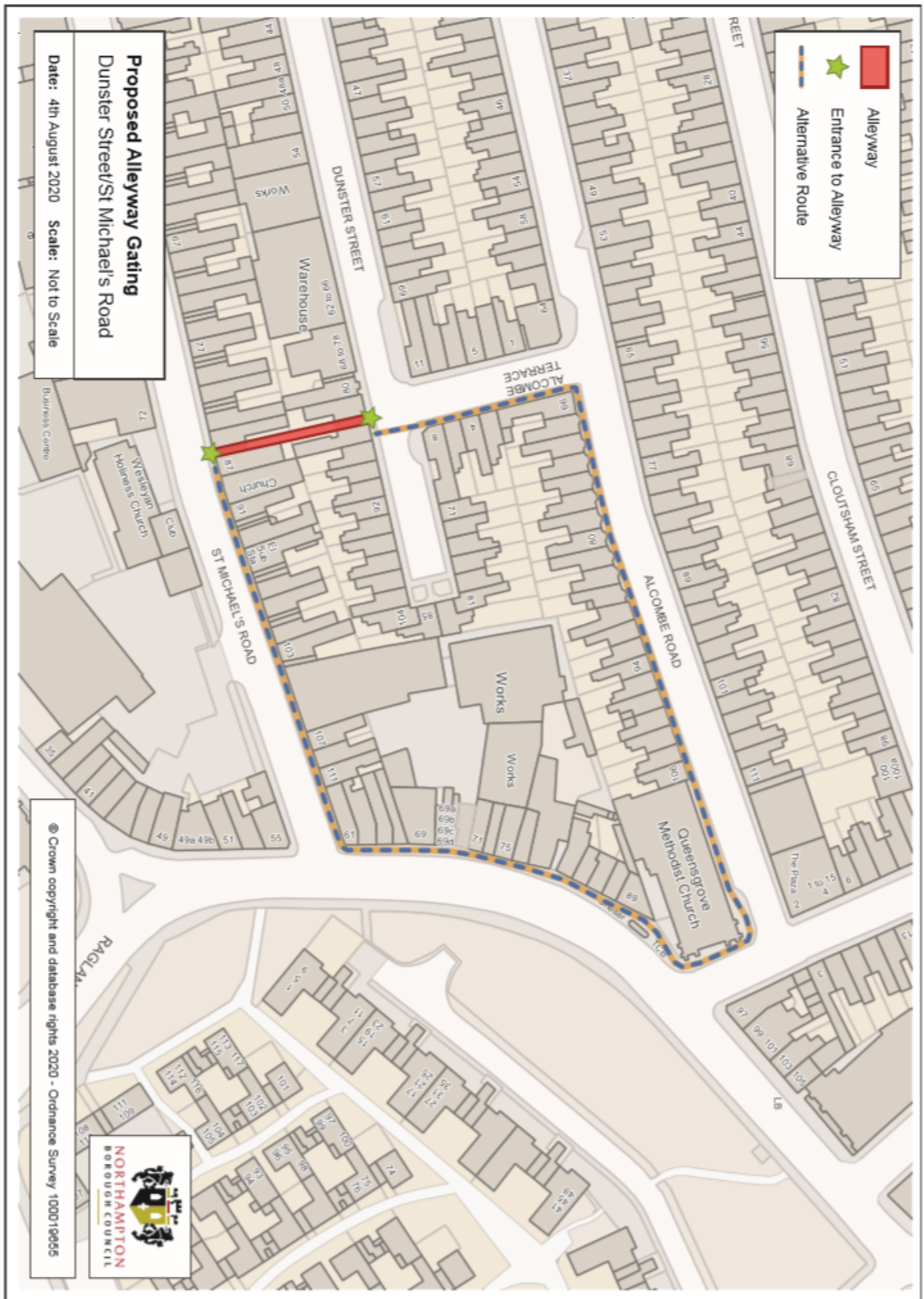
Appendix 2 – Equality Impact Assessment

Appendix 3 - Statement of Support from Alcombe Terrace Residents Group.

Appendix 4 – Proposed consultation questions,

**George Candler
Chief Executive**

APPENDIX 1



Equality Impact Assessment

Part 1: Screening

When reviewing, planning or providing services Northampton Borough Council needs to assess the impacts on people. Both residents and staff, of how it works - or is planning to – work (in relation to things like disability). It has to take steps to remove/minimise any harm it identifies. It has to help people to participate in its services and public life. “**Equality Impact Assessments**” (EIAs) prompt people to think things through, considering people’s different needs in relation to the law on equalities. The first stage of the process is known as ‘screening’ and is used to come to a decision about whether and why further analysis is – or is not – required. EIAs are published in line with transparency requirements.

A helpful guide to equalities law is available at: www.northampton.gov.uk/equality. A few notes about the laws that need to be considered are included at the end of this document. Helpful questions are provided as prompts throughout the form.

| | |
|---|---|
| 1 Name of policy/activity/project/practice | Public Places Protection Order – Dunster Street Alley |
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|---|---|
| 2. Screening undertaken (please complete as appropriate) | |
| Director of Service | George Candler |
| Lead Officer for developing the policy/activity/practice | Vicki Rockall |
| Other people involved in the screening (this may be people who work for NBC or a related service or people outside NBC) | Legal Services Environmental Services Manager, NBC Environmental Health & Licensing Manager, NBC Northants Police Cabinet Member for Community Safety, NBC Highways, Northamptonshire County Council Northants Fire Service |

3. Brief description of policy/activity/project/practice: including its main purpose, aims, objectives and projected outcomes, and how these fit in with the wider aims of the organisation.

- A Public Spaces Protection Order (PSPO) allows a local authority to introduce a series of measures into a defined locality.
- The proposed PSPO will allow gating of the highway between Dunster Street and St Michaels Road, a hotspot for anti-social behaviour for many years.
- Gating Dunster Street alley will make it more difficult for offenders to evade the police.
- This is a legal order that can last for up to three years and it will prohibit a number of anti-social behaviour activities in the area including street drinking, drug taking/ dealing, sexual and violent offences, removal of tags from stolen goods away from the public eye.
- If an element of this order is breached, the outcome could be that the individual is issued with a fixed penalty notice for £100 or fined up to a maximum of £1000 if at court.

4 Relevance to Equality and Diversity Duties

A Public Spaces Protection Order is designed to stop all individuals or a specific group of persons committing anti-social behaviour in a public space. This Order allows gating of a highway between Dunster Street and St Michael's Road. This highway is currently for pedestrian through access only. There is a parallel pedestrian through access only highway, Swan Yard, or around Gold Street 100 yards away in either direction.

If you have indicated there is a negative impact on any group, is that impact:

No – all individuals/sections of the community will be dealt with in the same manner. Incidents of ASB will continue to be dealt with in line with our equalities framework

Legal?

N/A

Please explain:

5 Evidence Base for Screening

Equality Human Rights Commission

<http://www.equalityhumanrights.com/resources/case-studies-of-how-organisations-are-using-the-duties/case-studies-equality-impact-assessments/>

Section 72 of the Anti-Social Behaviour and Policing Act 2014 requires the Cabinet as decision maker to pay particular regard to rights of freedom of expression and freedom of assembly set out in articles 10 (the right to freedom of expression) and 11 (freedom of assembly and association) of the European Convention on Human

Rights in considering the making any such order. The making of the said order is considered to be proportionate and will fulfil a legitimate aim of curbing anti-social behaviour in public places for the benefit of the law abiding majority and hence will not infringe article 11 ECHR.

6 Requirements of the equality duties:

(remember there's a note to remind you what they are at the end of this form and more detailed information at www.northampton.gov.uk/equality)

Will there be/has there been consultation with all interested parties?

- If Cabinet authorises the consultation period the following will be consulted:-
 - A 12 week online public consultation via an open access online survey using 'Survey Monkey' Councils social media accounts
 - Businesses and residents adjacent to Jeyes Jetty
 - Councillors
 - Businesses
 - Community Safety Partnership
 - Council Officers
 - Northamptonshire Office of Police & Crime Commissioner
 - Northamptonshire Police
 - Northamptonshire County Council
 - Community Forums
 - Residents Panel
 - Members of the public
 - Local press and media channels
 - Town Centre BID
 - Northamptonshire Fire & Rescue

Are proposed actions necessary and proportionate to the desired outcomes?

Yes/No Public Spaces Protection Order is designed to stop all individuals or a specific group of persons committing anti-social behaviour in a public space

Where appropriate, will there be scope for prompt, independent reviews and appeals against decisions arising from the proposed policy/practice/activity?

Yes/No The implementation of the PSPO can be challenged by any interested person within 6 weeks of the making of the Order, the challenge is made at the High Court. Anyone who is directly affected by the making of the PSPO can challenge the order

Does the proposed policy/practice/activity have the ability to be tailored to fit different individual circumstances?

Yes/No Public Spaces Protection Orders provide the opportunity to address specific problems in specific areas and create an 'Order' to enable appropriate and proportionate action to be taken.

Where appropriate, can the policy/practice/activity exceed the minimum legal equality and human rights requirements, rather than merely complying with them?

The making of the said order is considered to be proportionate and will fulfil a legitimate aim of curbing anti-social behaviour in public places for the benefit of the law abiding majority and hence will not infringe article 11 ECHR.

From the evidence you have and strategic thinking, what are the key risks (the harm or ‘adverse impacts’) and opportunities (benefits and opportunities to promote equality) this policy/practice/activity might present?

| | Risks (Negative) | Opportunities (Positive) |
|---|--|--|
| Race | | There is no evidence that the ‘Order’ will impact on any specific person based on their race |
| Disability | Mental Health issues and physical disability will be taken into account by officers. | There is no evidence that the ‘Order’ will impact on any specific person based on their dis/ability. |
| Gender or Gender Identity/Gender Assignment | | There is no evidence that the ‘Order’ will impact on any specific person based on their gender |
| Pregnancy and Maternity (including breastfeeding) | | There is no evidence that the ‘Order’ will impact on any specific person based on pregnancy or maternity. If required pregnant women will be referred into safeguarding mechanisms |
| Sexual Orientation | | There is no evidence that the ‘Order’ will impact on any specific person based on their sexual orientation |
| Age (including children, youth, midlife and older people) | | Young people will be referred into safeguarding mechanisms. In some cases, parent/guardian of under 16’s will be spoken to |
| Religion, Faith and Belief | | There is no evidence that the ‘Order’ will impact on any specific person based on their beliefs or religion |
| Human Rights | The consultation process will provide the opportunity | The ‘Order’ has been proposed due to the |

| | | |
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| | to capture their views. | volume of incidents that are occurring that are having a significant impact on the peoples quality of life. The introduction of this 'Order' will have a positive impact on residents, businesses, and visitors to the town. |
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7 Proportionality

All cases will be treated on an individual basis, and any decisions reached will be within existing legislative guidelines. Use of the PSPO powers and advice given will be recorded in pocket notebooks and on ECIN's data base. The information will be analysed to determine whether the implementation of the powers has had a disproportionate effect upon the equality factors.

Enforcement action will always be seen as a last resort. Through the multi-agency groups and individual case management, support and intervention will continue to be offered.

8 Decision

Set out the rationale for deciding whether or not to proceed to full impact assessment

Full Equality Impact Assessment is not required as all sections of the community are treated the same. The proposed restrictions will impact positively on people whose protective characteristics are impacted upon by the anti-social behaviour the order is designed to address

Date of Decision:

We judge that a full impact assessment is not necessary since there are no identified groups affected by these changes.

1. Equality Duties to be taken into account in this screening include:

Prohibited Conduct under The Equality Act 2010 including:

Direct discrimination (including by association and perception e.g. carers); Indirect discrimination; Pregnancy and maternity discrimination; Harassment; third party harassment; discrimination arising from disability.

Public Sector Duties (Section 149) of the Equality Act 2010 for NBC and services provided on its behalf: (due to be effective from 4 April 2011)

NBC and services providing public functions must in providing services have due regard to the need to: **eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity and foster good relations between different groups.** 'Positive action' permits proportionate action to overcome disadvantage, meet needs and tackle under-representation.

Rights apply to people in terms of their "Protected Characteristics":

Age; Gender; Gender Assignment; Sexual Orientation; Disability; Race; Religion and Belief; Pregnancy; Maternity. But Marriage and Civil Partnership do not apply to the public sector duties.

Duty to "advance equality of opportunity":

The need, when reviewing, planning or providing services/policies/practices to assess the impacts of services on people in relation to their 'protected characteristics', take steps to remove/minimise any negative impacts identified and help everyone to participate in our services and public life. **Equality Impact Assessments** remain best practice to be used. Sometimes **people have particular needs** e.g. due to gender, race, faith or disability that need to be addressed, not ignored. NBC must have due regard to the **duty to make reasonable adjustments** for people with disabilities. NBC must **encourage people who share a protected characteristic to participate in public life** or any other activity in which their participation is too low.

Duty to 'foster good relations between people'

This means having due regard to the need to **tackle prejudice** (e.g. where people are picked on or stereotyped by customers or colleagues because of their ethnicity, disability, sexual orientation, etc) and **promote understanding**.

Lawful Exceptions to general rules: can happen where action is proportionate to achieve a legitimate aim and not otherwise prohibited by anything under the Equality Act 2010. There are some special situations (see Ch 12 and 13 of the Equality Act 2010 Statutory Code of Practice – Services, Public Functions and Associations).

2. National Adult Autism Strategy (Autism Act 2009; statutory guidelines) including:

3. to improve how services identify and meet needs of adults with autism and their families.

4. Human Rights include:

5. Rights under the European Convention include not to be subjected to degrading **treatment**; **right to a fair trial** (civil and criminal issues); **right to privacy** (subject to certain exceptions e.g. national security/public safety, or certain other specific situations); **freedom of conscience** (including religion and belief and rights to manifest these limited only by law and as necessary for public safety, public order, protection of rights of others and other specified situations); **freedom of expression** (subject to certain exceptions); **freedom of peaceful assembly and to join trade unions** (subject to certain exceptions); **right not to be subject to unlawful discrimination** (e.g. sex, race, colour, language, religion, political opinion, national or social origin); **right to peaceful enjoyment of own possessions** (subject to certain exceptions e.g. to secure payment of taxes or other contributions or penalties); **right to an education**; **right to hold free elections by secret ballot**. The European Convention is given effect in UK law by the Human Rights Act 1998.

APPENDIX 3

Statement from 'Alcombe Terrace Community Clean Up' Residents Group

Dunster Street / St Michaels Road Alleyway

As a community group and residents of the area around the alleyway in question, we have long had issues and concerns regarding the use of the alleyway and its effects on the community.

The main issue of great concern is anti-social behaviour: criminal activity, drug use and dealing.

Second to this would be: fly tipping, dumping of rubbish and litter.

We have recently come together as a community and are monitoring the terrace for anti-social behaviour and fly tipping, started a Facebook group and are in touch and gaining support from both local Councillors, community police/engagement and Neighbourhood Wardens. This platform has enabled us to share our concerns on safety in the area and has highlighted that many residents simply feel very unsafe in the close vicinity of the alleyway.

We are in desperate need for help and support in making change on this subject particularly. We regularly report sightings of anti-social behaviour and criminal activity and some residents have both footage and images as evidence.

This activity isn't a one off now and again; the alleyway and the corner of Dunster Street opposite are used **DAILY** for drug dealing and possible usage. This mainly happens at night but during lockdown especially we are witnessing drug deals happening in broad daylight on that corner practically on residents doorsteps. (CCTV in place on properties in question.) The alleyway is then used as a convenient 'escape/exit route' for those on foot due to being so dark and hidden. Countless vehicle activity late at night – waiting, odd movements from people coming up to cars and then disappearing through the alleyway. Cars will pull up on the corner of Dunster Street/Alcombe Terrace, then people on foot approach the cars. This is not the same car every time – numerous different cars, therefore different dealers/buyers have been witnessed, highlighting the fact that this spot is notorious for this criminal activity due to its location and the convenience of the alleyway. The alleyway is used **EVERY TIME** this activity takes place.

We strongly believe if the alleyway were to be gated this would deter this criminal activity and stop the use and dealing of drugs on our doorsteps. Residents witness this first-hand and many of us share our concerns with messages from people very scared in the middle of the night – this is only getting worse. None of us feel comfortable going outside our properties past 8/9pm at night and it is no way to live. We are scared of any repercussions from all this – you just never know who these people are and what they are carrying on them, how easily they may be provoked if they happen to see you witnessing what they are doing. We are beyond desperate for that alleyway to be gated off and for the authorities to take note and survey this area more to stop and even catch the culprits who seem to be doing this routinely. Residents are not sleeping, scared to go out at certain times and feel quite trapped in our own community.

We have a resident in Alcombe Terrace who is actually suffering extremely badly from this and having to seek medical help due to anxiety and insomnia – brought on and made worse by the

activity taking place on our street right outside our properties. We also have a resident who is quite poorly who is regularly woken up both day and night due to this activity. The property right next to the alleyway on Dunster Street has also shared and expressed their concerns. Change needs to happen.

We have routinely witnessed people also using the alleyway as a place to meet, get drunk, use drugs and stay for long periods of time. The alleyway has been slept in on numerous occasions too as well as being used frequently as a toilet. The smell is unbearable, this is dangerous especially at this current time and a health concern for all. Numerous sightings of disposed nitrous oxide gas canisters in this area are also very troubling.

The alleyway is also conveniently used as a rubbish bin – tucked away and hidden it has been great for those wanting to dump that broken fridge or dispose of countless extra bin bags! It is disgusting and a serious concern. We no longer walk around our area, walk our dogs, take kids out etc as there is simply too much debris and broken glass all over walkways.

We thank you for your time in reading our statement,

Alcombe Terrace Community Clean Up

APPENDIX 4

Proposed Consultation Questions

Q1 Do you think anti-social behaviour is an issue in or connected with the alleyway between Dunster Street and St Michael's Road?

Q2 If so, what anti-social behaviour have you experienced or seen in or connected with the alleyway?

Q3 How close to the Dunster Street/St Michael's Road alleyway do you....

| | Within 50m radius | 50-100 m radius | Farther than 100m |
|------|-------------------|-----------------|-------------------|
| Live | | | |
| Work | | | |

Q4 How often do you use the alleyway?

Q5 Would you support the closure of the Dunster Street/St Michael's Road alleyway 24 hours a day, 7 days a week?

Q6 Do you think that the Alcombe Terrace/Alcombe Road/Grove Road route is an acceptable alternative route to Kettering Road from Dunster Street?

Q7 Do you have any other comments to add?