

Report

Council

Part 1

Date: 15 September 2023

Subject **Maesglas PSPO**

Purpose To ask council to agree to the reinstatement of a Public Spaces Protection Order in the Maesglas area.

Author Public Protection Services Manager

Ward Gaer

Summary Council are asked to agree to the reinstatement of a Public Spaces Protection Order (PSPO) in the Maesglas area.

Proposal **To agree to a Public Spaces Protection Order in the Maesglas area.**

Action by Head of Environment and Public Protection

Timetable Immediate

This report was prepared after consultation with:

- Community Protection Manager
- Public Protection Services Manager
- Head of Finance
- Head of Finance
- Head of Law and Standards
- Head of People Policy and Transformation
- Antisocial Behaviour Liaison Team

Signed

Background

Definitions

The Antisocial Behaviour, Crime and Policing Act 2014, commenced in October 2014, and introduced the Public Spaces Protection Order (PSPO).

A PSPO is designed to prevent individuals or groups committing antisocial behaviour in a public space where the behaviour is having, or is likely to have, a detrimental effect on the quality of life of those in the locality; and the behaviour is or likely to be persistent or continuing in nature and be unreasonable.

The powers to make an Order rest with local authorities, in consultation with the Police, Police and Crime Commissioner and other relevant bodies who may be impacted upon by the Order.

The Council can make a PSPO on any public space within its own area. The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, for example a shopping centre. The maximum length of a PSPO is three years, but it can be reviewed at any time.

When making a PSPO, the Council must have regard to the rights of freedom of expression and freedom of assembly and association set out in the Human Rights Act 1998.

Restrictions

A PSPO is intended to provide the Council and Police with additional powers to require individuals or groups from refraining from certain actions or to do certain things within specified times and within a clearly specified geographical location, to quote the Act "it can either be a blanket restriction or requirement or can be targeted against certain behaviours by certain groups at certain times".

Orders can be enforced by a Police Officer, Police Community Support Officer, and delegated Council officers. A breach of the Order is a criminal offence and can be dealt with through the issuing of a Fixed Penalty Notice of up to £100 (to be fixed locally), or a Level 2 or 3 fine (£500 or £1,000 depending on the specific offence), on prosecution. Due to the nature of the proposed restrictions, much of the enforcement is most likely to be carried out by police officers.

Considerations

In deciding to make a PSPO, the Council will need to consider a number of questions including;

- Is there a specific problem caused by particular activities?
- If so, what needs to be done to regulate or control the problem?
- What is the least restrictive way of achieving this?

Appeals

Anyone who lives in, or regularly works in or visits the area can appeal a PSPO in the High Court within six weeks of issue. Further appeal is available each time the PSPO is varied by the Council.

Maesglas PSPO

A PSPO was made in 2018 to cover an area in Maesglas, part of the Gaer electoral ward, to respond to antisocial behaviour. This included restricting access to a public path behind the shops situated on Cardiff Road and several other appropriate restrictions.

The PSPO was valued by Gwent Police and the community, however in line with the relevant legislation it expired in September 2021.

Discussions with local ward members, Gwent Police and Newport City Homes indicated that the previous PSPO was successful and that a renewal of the PSPO was necessary to prevent antisocial behaviour significantly impacting on the local community again. However, data and community feedback from partners pointed to a continuation of antisocial behaviour as a significant problem in the area.

In a period from 1 August 2022 to 31 July 2023 the council's warden service received 135 calls of antisocial behaviour in the Maesglas area.

The proposed restrictions for the PSPO are:

Drinking Alcohol

"No person shall within the Restricted Area refuse to stop drinking alcohol or hand over any containers (sealed or unsealed) which are believed to contain alcohol, when required to do so by an authorised officer to prevent public nuisance or disorder".

- This restriction was previously in place for the successful 2018 PSPO and was requested to prevent the antisocial consumption of alcohol.

Causing Distress Etc.

No person shall behave (either individually or in a group) in a manner that causes or is likely to cause harassment, alarm or distress to a member of the public; persons who breach this prohibition shall, when ordered to do so by an authorised person, disperse immediately or by such time as may be specified and in a manner as may be specified by the said authorised person and failure to do so is a further breach of this Order.

- This restriction was previously in place for the successful 2018 PSPO and was requested to prevent the antisocial consumption of alcohol.

Intoxicating Substances

No person shall within the Restricted Area:

- a. Ingest, inhale, inject, smoke, possess or otherwise use intoxicating substances.
 - b. Sell or supply intoxicating substances.
 - c. Intoxicating substances (commonly referred to as "legal highs") is given the following definition: substances with the capacity to stimulate or depress the central nervous system (does not include alcohol).
 - d. Exemptions shall apply in cases where the substances are used for valid and demonstrable medicinal use, given to an animal as a medicinal remedy, are cigarettes (tobacco) or vaporisers or are food stuffs (to include drinks) regulated by food health and safety legislation.
 - e. Persons who breach this prohibition shall surrender any such intoxicating substance in his/her possession when asked to do so by an authorised officer in the Restricted Area.
- This restriction was previously in place for the successful 2018 PSPO and was requested to prevent the possession and/or supply of drugs and other substances commonly known as "new psychoactive substances" or NLPs. It is identical to restrictions in Pill where a PSPO was enacted earlier this year. There is evidence of drug misuse in this area too.

Restricting Access to Lane

No person shall, except as provided in Articles (6c) and (6d) below, use the public right of way over the public place as shown coloured in blue on the Plan annexed to this Order hereafter referred to as ("the

Restricted Area 2”); namely part of a lane that runs directly behind the shops located on Cardiff Road known locally as the “Maesglas shops”.

- a. Gates may be installed, operated, and maintained at each end by Newport City Council.
 - b. Any person using the gates referred to in Article (6a) to gain access to or from the Restricted Area 2 shall ensure that the gates are closed and locked immediately after they are used.
 - c. The restriction in Article (6) of this Order shall not apply to any person who occupies premises adjoining or adjacent to the Restricted Area 2.
 - d. The restrictions in Articles (6) and (6b) of this Order shall not apply to any Police, Ambulance or Fire Service personnel acting in pursuance of statutory powers or duties or to any statutory undertakers, gas, electricity, water, or communications provider requiring access to their apparatus situated in the Restricted Area 2.
 - e. The alternative route for pedestrians is as shown in yellow on the Plan annexed to this Order.
 - f. No waste or household item shall be deposited, stored, or discarded in the Restricted Area 2. This restriction shall not apply to any wheeled bin or other approved receptacle for the storage of waste where the Council has given written consent for the wheeled bin or approved receptacle to be stored in the Restricted Area 2.
- This restriction was previously in place for the successful 2018 PSPO To the rear of the Maesglas Shops there is a path which allows the public to gain access to the shops, a community centre, and houses.
 - The path was used frequently by groups of people to congregate, with drug possession/abuse taking place together with other forms of antisocial behaviour, including intimidation of nearby residents. The path was also used by groups of youths to disperse after causing problems on surrounding streets. The path allows foot access by some of the retailers located at the Maesglas Avenue end of the row of shops, into the rear of their businesses. The remainder of the area behind the shops was fenced off some years ago and those premises can only be accessed from Bideford Road.
 - It is proposed to gate the path and for the gates to be always closed unless required for access. The positions of the proposed gates are shown on the map included at Appendix 2.
 - An alternative route exists around the front of the shops on Cardiff Road, or along Maesglas Avenue and into the lane at the rear of Maesglas Avenue, accessed by turning into the road between 71 and 73 Maesglas Avenue.
 - Each of the retailers affected are provided with a key to allow them legitimate access to the path, should this be required.

Consultation

Consultation with the public took place in August/September 2023 via direct discussion on a day of action and by social media messaging and website advertisement. The outcome of the consultation is as follows:

- 112 responses were received.
- 89% of respondents report witnessing or being affected by ASB in the area occasionally or frequently.
- 96% of respondents agree with the restrictions proposed in the order.
- 95% of respondents agree that a gate is placed in the identified lane.
- 100% of respondents agree with the ‘loitering/congregating ASB’ restriction.
- 99% of respondents agree with the ‘public drinking’ restriction.
- 99% of respondents agree with the ‘controlled substances’ restriction.
- Many respondents provided examples of the types of ASB that has occurred.
- Many respondents state the area covered does not cover the whole area where the ASB occurs.

The increased number of responses by members of the community was pleasing, and their response showed the area was still troubled by ASB; it is suggested this engagement strongly supports the reinstatement of the PSPO.

Consultees identified additional parts of the Maesglas area that would benefit from inclusion within the PSPO. Consideration was given to suspending the process and consulting further on a wider area. However, officers decided instead to seek to install the existing proposed order, and then immediately commence a process of assessment of a widening of the PSPO area. If it is concluded a wider area is appropriate, then a new PSPO would be proposed. The advantage of this approach means there will be no delay in protections being put in place for the main area, whilst still allowing the possibility of new areas being included within the near future.

The following other individuals/agencies were consulted:

- Elected members of the Gaer ward
- Newport City Homes
- Gwent Police Local Officers and the Chief Constable
- Police and Crime Commissioner and Officers with the service
- Local businesses
- Members of the public

As the PSPO seeks to restrict a right of way it is important to seek and consider the views of occupiers of premises adjacent to the highway and people in the locality. This was done on the day of action and by social media. The alternative route was available and clearly described.

Financial Summary (Capital and Revenue)

There are no costs required beyond existing provision.

	Year 1 (Current) £	Year 2 £	Year 3 £	Ongoing £	Notes including budgets heads affected
Costs (Income)	0	0	0	0	
Net Costs (Savings)					
Net Impact on Budget					

Risks

Risk Title / Description	Risk Impact score of Risk if it occurs* (H/M/L)	Risk Probability of risk occurring (H/M/L)	Risk Mitigation Action(s) What is the Council doing or what has it done to avoid the risk or reduce its effect?	Risk Owner Officer(s) responsible for dealing with the risk?
ASB and crime grows in the area.	H	H	Agree the PSPO.	Public Protection Services Manager
Community feels isolated.	H	H	Agree the PSPO.	Public Protection Services Manager
Council puts in measures that are disproportionate to the problems experienced and are open to legal challenge.	M	L	The previous order had restrictions that worked well, and consultation has been carried out and delivered significant numbers of responses. The vast majority of replies have been supportive.	Public Protection Services Manager

Links to Council Policies and Priorities

The maintenance of such a PSPO in this key residential area also supports Safer Newport, the area's Community Safety Partnership, which has a commitment to reduced antisocial behaviour and crime in the city centre.

The council's corporate plan shows a commitment to the economy, education, and skills within its well-being objective 1 delivering a Newport that is thriving and growing and aspiring to provide opportunities to all. This PSPO fits well with this objective as it seeks to provide businesses in Newport with an improved trading environment free of antisocial behaviour. This PSPO supports the bank of shops on Cardiff Road and provides the message that the partners support their businesses.

Options Available and considered.

1. Agree to the PSPO at Maesglas as outlined in the appendices.
2. Refuse the PSPO request.

Preferred Option and Why

1. Agree to the PSPO at Maesglas. The previous PSPO was successful, and it seems a necessary and sensible protection to the area to support its residents and businesses.

Comments of Chief Financial Officer

There are no reported financial implications from introducing this PSPO, and any periodic costs of monitoring/applying the restrictions will be afforded from existing resources.

Comments of Monitoring Officer

As set out in the report, the Council has the power to make a PSPO provided it is satisfied that activities being carried on in a given location are having a detrimental effect on the quality of life of those in that locality or it is likely that such activities will occur. The effect or likely effect of the activities in question must be persistent or continuing, unreasonable in nature and of sufficient to justify any restrictions imposed by the PSPO. The Order may prohibit, or impose requirements upon, activities carried on in the area to which the Order applies, or both. Any prohibition or restriction must be reasonable to impose in order to prevent or reduce the detrimental effect referred to above.

In this case, the Council is seeking to make a PSPO which would impose restrictions and requirements upon persons in the area to which the Order applies (the area edged red on the Order plan). It would also restrict access to the path coloured blue on the Order plan. This path is a highway. The classification of this highway is such that it is within the Council's powers to restrict access in this way, provided that the above criteria are satisfied. Before making the Order, the Council must consider the likely effects on the occupiers of premises adjoining or adjacent to the highway (path), the likely effect of making the Order on other persons in the locality and the availability of a suitable alternative route. Furthermore, before making the proposed Order, the Council must notify persons who would potentially be affected by the proposed order (i.e. persons with properties adjoining or adjacent to the highway or others in the locality), inform those persons how they can see a copy of the proposed order, provide an opportunity to make representations and consider any representations made. It is assumed that the consultation referred to above includes all of the persons in these categories.

A PSPO may not restrict access to a highway for the occupier of a premises adjacent to or adjoining the highway, may not restrict access to a highway which is the only or principal means of access to a dwelling and may not restrict access to premises used for business or recreational purposes during the hours when those premises are usually open for business. However, the Council may install barriers or gates to enable the enforcement of the PSPO. The report indicates that the above requirements would be complied with by providing a key for the gate to those individuals who have a legitimate need to do so to access the path.

The Council should ensure that any required planning permission and other consents are obtained before installing the proposed gates.

A person who lives in an area subject to a PSPO or who regularly works in or visits that area may apply to the High Court to challenge the validity of the Order. Such challenge must be made within 6 weeks of the Order being made. It would appear, however, that the risk of challenge to the proposed order is low, given that this is in effect an extension of an order that is already in place and that no strong objections appear to have been received during the consultation referred to above.

Comments of Head of People, Policy, and Transformation

In 2018 a Public Spaces Protection Order was put in place to cover parts of Maesglas, in response to concerning levels of anti-social behaviour. This included restricting access to a public path situated to the rear of Cardiff Road and several other restrictions to curb antisocial behaviour. In line with the relevant legislation the PSPO expired in September 2021.

Discussions with local ward members, Gwent Police and Newport City Homes indicated that the previous PSPO gave effective additional powers and that a renewal of the PSPO was desirable. Consultation with local stakeholders also suggests strong support for the reinstatement of the PSPO and indicates that ASB continues to be a significant concern for the community.

Use of PSPOs where required demonstrate a joined-up and preventative response to ASB, and also follows close engagement with communities.

There are no direct human resources implications within this report.

Scrutiny Committees

N/A

Fairness and Equality Impact Assessment:

- Wellbeing of Future Generation (Wales) Act
- Equality Act 2010
- Socio-economic Duty
- Welsh Language (Wales) Measure 2011

No Equalities Impact Assessment is necessary in this case as the proposals set out in this report have no more impact on those with protected characteristics than any other group or individual.

- The proposals set out in this report have no more impact on children or families than any other group or individual.
- The proposals set out in the report to be consulted on would contribute to several the Well-being Goals set out in the Wellbeing of Future Generations (Wales) Act 2015. Relevant goals are “A more equal Wales”, “A Wales of cohesive communities”, “A Wales of vibrant culture and thriving Welsh language”.
- The proposal takes account of the sustainable development principle. The proposals would contribute by helping to prevent problems of antisocial behaviour blighting the area, which would help to build a cohesive and sustainable community.
- A successful consultation took place is in line with the requirement to involve people in decisions that affect them. The public were very engaged with the process and have supported the reintroduction of the order.

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

This PSPO will enhance the work being done in the city to prevent, crime and disorder in the area.

Consultation

Consultation took place in August/September 2023. Details are referenced above.

Background Papers

1. Proposed Renewed Order
2. Map of PSPO Proposed

Dated: 20 September 2023

Appendix A: Proposed Renewed Order

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

SECTION 59

PUBLIC SPACES PROTECTION ORDER

MAESGLAS, NEWPORT

NEWPORT CITY COUNCIL in exercise of its powers under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) hereby makes this Order, being satisfied on reasonable grounds that activities in a public space, namely in the MAESGLAS area of Newport, have had or are likely to have a detrimental effect on the quality of life of those in the locality and that these activities involved various anti-social behaviours. Further, Newport City Council believes that the effect, or likely effect, of the said activities is, or is likely to be, persistent or continuing in nature, such as to make the activities unreasonable and justifies the restrictions imposed by this Order:-

1. This Order shall come into operation on XXXX and shall have effect for a period of 3 years thereafter, unless extended by further Orders under the Council’s statutory powers.
2. This Order relates to the public place in the City of Newport as shown edged in red on the Plan annexed to this Order (“the Restricted Area”) commonly referred to as “MAESGLAS”.

PROHIBITIONS:-

3. No person shall within the Restricted Area refuse to stop drinking alcohol or hand over any containers (sealed or unsealed) which are believed to contain alcohol, when required to do so by an authorised officer to prevent public nuisance or disorder.
4. No person shall behave (either individually or in a group) in a manner that causes or is likely to cause harassment, alarm or distress to a member of the public; persons who breach this prohibition shall, when ordered to do so by an authorised person, disperse immediately or by such time as may be specified and in a manner as may be specified by the said authorised person and failure to do so is a further breach of this Order.
5. No person shall within the Restricted Area:
 - a. Ingest, inhale, inject, smoke, possess or otherwise use intoxicating substances.
 - b. Sell or supply intoxicating substances.
 - c. Intoxicating substances (commonly referred to as “legal highs”) is given the following definition: substances with the capacity to stimulate or depress the central nervous system (does not include alcohol).
 - d. Exemptions shall apply in cases where the substances are used for valid and demonstrable medicinal use, given to an animal as a medicinal remedy, are cigarettes (tobacco) or vaporisers or are food stuffs (to include drinks) regulated by food health and safety legislation.
 - e. Persons who breach this prohibition shall surrender any such intoxicating substance in his/her possession when asked to do so by an authorised officer in the Restricted Area.
6. No person shall, except as provided in Articles (6c) and (6d) below, use the public right of way over the public place as shown coloured in blue on the Plan annexed to this Order hereafter referred to as (“the Restricted Area 2”); namely part of a lane that runs directly behind the shops located on Cardiff Road known locally as the “Maesglas shops”.
 - a. Gates may be installed, operated and maintained at each end by Newport City Council.
 - b. Any person using the gates referred to in Article (6a) to gain access to or from the Restricted Area 2 shall ensure that the gates are closed and locked immediately after they are used.
 - c. The restriction in Article (6) of this Order shall not apply to any person who occupies premises adjoining or adjacent to the Restricted Area 2.

- d. The restrictions in Articles (6) and (6b) of this Order shall not apply to any Police, Ambulance or Fire Service personnel acting in pursuance of statutory powers or duties or to any statutory undertakers, gas, electricity, water or communications provider requiring access to their apparatus situated in the Restricted Area 2.
- e. The alternative route for pedestrians is as shown hatched in xxxx on the Plan annexed to this Order.
- f. No waste or household item shall be deposited, stored or discarded in the Restricted Area 2. This restriction shall not apply to any wheeled bin or other approved receptacle for the storage of waste where the Council has given written consent for the wheeled bin or approved receptacle to be stored in the Restricted Area 2.

FIXED PENALTY NOTICES AND OFFENCES:-

- 7. It is an offence for a person without reasonable excuse to engage in any activity that is prohibited by this Order.
- 8. In accordance with section 63 of the Act, a person found to be in breach of this Order by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a Level 2 fine (currently £500) or to a Fixed Penalty Notice up to £100.
- 9. In accordance with section 67 of the Act, a person found to be in breach of this Order other than by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a Level 3 fine (currently £1000) or to a Fixed Penalty Notice up to £100.

APPEALS:-

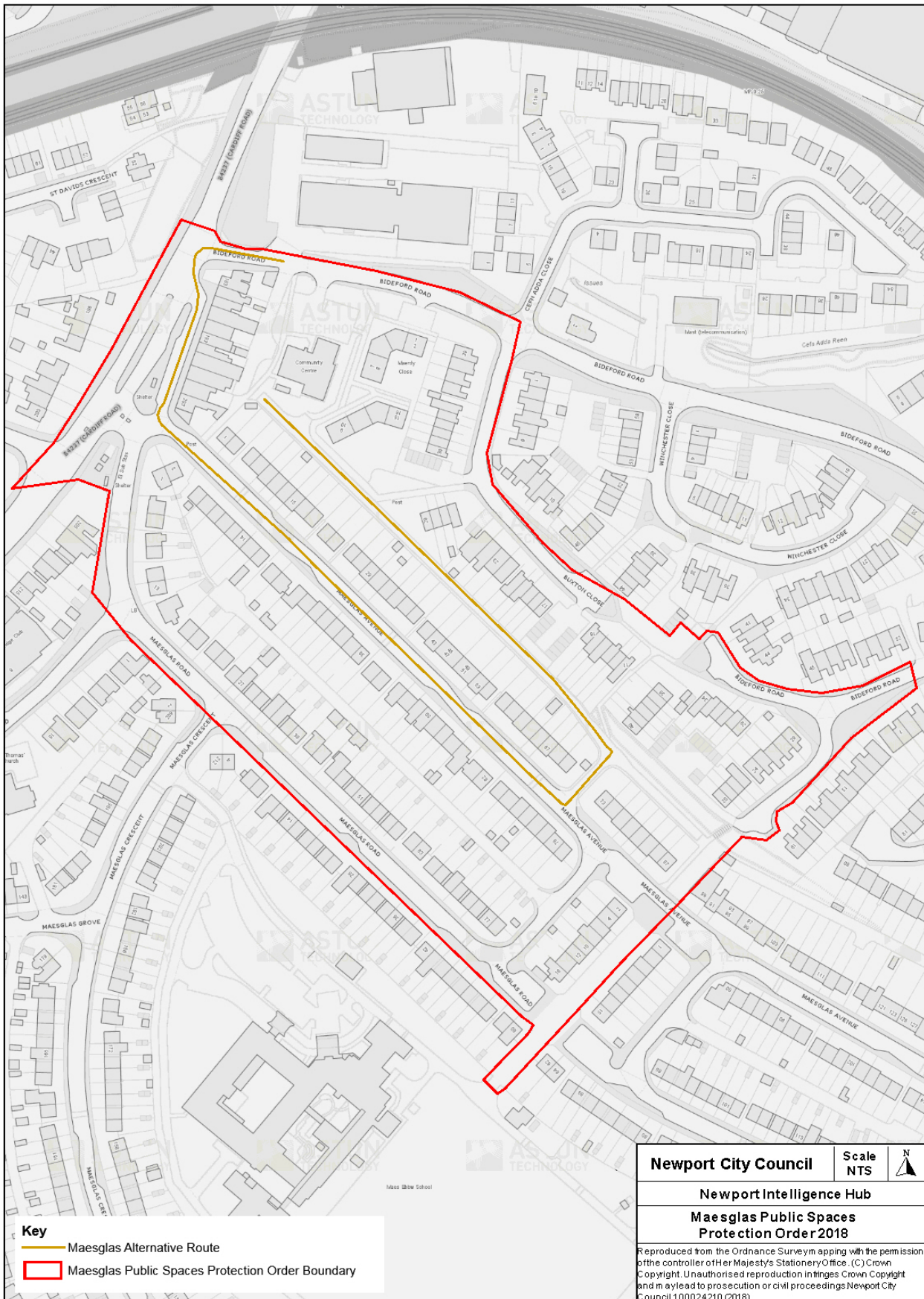
- 10. If any interested person wishes to question the validity of this Order on the grounds that the Council had no power to make it or that any requirement of the Act has not been complied with in relation to this Order, he or she may apply to the High Court within 6 weeks from the

date on which this Order is made.

Dated:
 THE COMMON SEAL of)
 NEWPORT CITY COUNCIL was)
 here unto affixed in the presence of:-)
)

Appendix B: Map of PSPO

Restricted Area 1



Restricted Area 2

