

## **EXTENSION OF PSPO: DRINKING IN A PUBLIC PLACE**

**Head of Service:** Rod Brown, Head of Housing & Community  
**Wards affected:** (All Wards);  
**Urgent Decision?(yes/no)**  
**If yes, reason urgent decision required:**  
**Appendices (attached):** Appendix 1 - Sealed PSPO 2018 No.1  
Appendix 2 - Draft PSPO  
Appendix 3 - Consultation Summary Report

### **Summary**

This report seeks authority to renew a Public Spaces Protection Order relating to alcohol.

### **Recommendation (s)**

The Committee is asked to

- (1) Approve the Draft Public Spaces Protection Order(s) in Appendix 2 or modify those Order(s) to cover such areas and related restrictions as the Committee considers proportionate to the statutory purpose found in ss59 to 75 Anti-social Behaviour Crime and Policing Act 2014 (“2014 Act”);**
- (2) Delegate authority to The Head of Housing and Community to make those Order(s) in accordance with the statutory process set out in the 2014 Act.**

## **1 Reasons for Recommendation**

- 1.1 As part of our approach to enforcement and community safety we said we would take action to reduce anti-social behaviour. The extension of the proposed Public Spaces Protection Orders (PSPO) prohibiting drinking in a public place should help control and reduce anti-social behaviour.

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### 2 Background

- 2.1 A Public Space Protection Order (PSPO) is designed to stop individuals or groups committing anti-social behaviour in a public space. The Council can issue a PSPO following consultation with the police, Police and Crime Commissioner, the owner or occupier of land in the restricted area and other community representatives they see fit.
- 2.2 On 24 December 2018 the Council designated areas of the Borough under the Public Spaces Protection Order (Epsom & Ewell Borough Council) 2018 No. 1. Copies of those Orders are at Appendix 1.
- 2.3 Under those Orders the Police made use of their powers in order to reduce alcohol being consumed in the streets. The current provisions permit the police to request alcohol consumption cease in the designated area and to request person(s) surrender of alcohol. Typically instances of the use of the order are not routinely recorded by police since they occur as part of an interaction with a member of the public participating in other disorderly conduct.
- 2.4 Anecdotally the powers were particularly useful around the Derby meeting when customers walk through the town centre to and from the Downs, and also in the evening, especially at weekends, when customers emerge from licensed premises carrying containers of alcohol.
- 2.5 Under the Anti-social Behaviour Crime and Policing Act 2014 the Council is required to either renew, vary or cancel any previous Orders no later than every 3 years. The Council is now being asked to renew the PSPOs to cover such areas and related restrictions as found at Appendix 2.

#### Extension, requirements, prohibitions and enforcement

- 2.6 An extant PSPO may be extended if the Council is satisfied on reasonable grounds that doing so is necessary in order to prevent occurrence or recurrence of the activities identified in the order, or an increase in the frequency or seriousness of those activities. An order may be extended more than once. Although the test is slightly different to the requirements set out in the Act, it is recommended that the Committee consider whether the requirements under the 2014 are met.
- 2.7 Under the 2014 Act PSPOs can be made where the following requirements are met:

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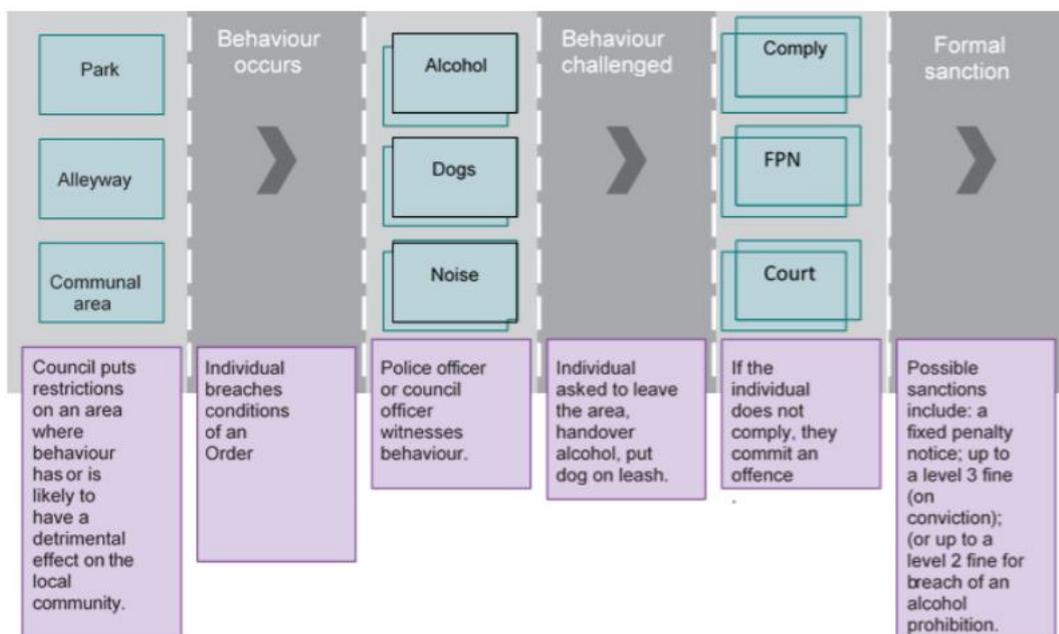
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- activities in a public place have had or are likely to have a detrimental effect on the quality of life of those in the locality;
- the effect of those activities is considered to be of a persistent or continuing nature; and
- unreasonable,

2.8 The restrictions and requirements are set by the Council. The test is whether the effects of the activities (persistent/continuing and unreasonable) justify imposing the restrictions and requirements. These can:

- be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times.
- restrict access to public spaces (including certain types of highway) where that route is being used to commit anti-social behaviour.
- be enforced by a police officer and council officers.

2.9 Enforcement is through the criminal sanctions for breaches. A breach is a criminal offence. Enforcement officers can issue a fixed penalty notice of up to £100 if appropriate or the courts can impose a fine of up to level 3 on prosecution. This flowchart summarises enforcement<sup>1</sup>:



<sup>1</sup> Home Office Guidance p.60. see here

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/956143/ASB\\_Statutory\\_Guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/956143/ASB_Statutory_Guidance.pdf) includes more detailed guidance for frontline professionals

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### Process for making a PSPO

- 2.10 There is a statutory process to be followed if orders are to be made, including consultation. What follows, sets out what we have done and what we need to do to comply with that process.

#### *What we have done...*

- 2.11 The Council carried out a formal consultation. This included publishing the consultation on our website and sending a copy to Surrey Police, the local PCC and Surrey County Council. The responses to that formal consultation are summarised in the Consultation Report Summary at Appendix 3.

#### *What needs to be done*

- 2.12 The recommendation to extend the PSPO has gone to this Committee to ensure openness and accountability. The justification for the making of the PSPO is found in the Report at Appendix 3.
- 2.13 If the Committee decides to make the PSPO or make a PSPO with different terms, it will come into effect on expiring of the existing PSPO (Appendix 1). This allows the Council officers time to draft and approve guidance and other documents, comply with certain publication requirements and take other necessary steps before the PSPO comes into effect.
- 2.14 Any PSPO will need to be sealed and published and adequate signs and notices erected. The make-up, number and location of the signs are a matter to be agreed between the Council and the police.

### **3 Proposals**

- 3.1 It is proposed that the draft orders at Appendix 2 be made with the Head of Housing and Community to coordinate the remaining steps set out above *What needs to be done*.

### **4 Risk Assessment**

#### Legal or other duties

##### 4.1 Impact Assessment

- There is unlikely to be any impact if the Committee decides to extend the existing PSPO.

##### 4.2 Crime & Disorder

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- PSPOs are designed to reduce the anti-social behaviour.

### 4.3 Safeguarding

The consumption of alcohol can have a negative impact on safeguarding and being able to control the consumption of alcohol in the street could have a positive impact on safeguarding.

### 4.4 Dependencies

- Not applicable

### 4.5 Other

- None

## 5 Financial Implications

5.1 The renewed orders cover the same area as covered by the existing PSPO orders but additionally include the alleyway running underneath Hudson House in Epsom following comments made in the consultation. The cost of updating and erecting new signs to publicise the fact that a PSPO is expected to be limited should the committee agree to re-enact the PSPO broadly along the lines of the current one. Should any additional signage be required it would be met from the Community Safety Reserve.

5.2 **Section 151 Officer's comments:** The financial implications are included in the body of the report.

## 6 Legal Implications

6.1 The Council has published the draft version of the PSPO in accordance with regulations.

6.2 The Council can make a PSPO on any public space within its local authority 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.

6.3 The Council's enforcement policies and strategies will need to consider what this presents for the most vulnerable members of society and any risks associated with displacement or dispersal of people to other areas not subject to a PSPO.

6.4 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. Time starts to run again each time a PSPO is renewed (as is the recommendation before the Committee) or varied.

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6.5 **Legal Officer's comments:** none arising from the content of this report.

### 7 Policies, Plans & Partnerships

- **Council's Key Priorities:** The following Key Priorities are engaged: Safe & Well, Green & Vibrant.
- **Service Plans:** The matter is included within the current Service Delivery Plan.
- **Climate & Environmental Impact of recommendations:** Reduction in anti-social behaviour is anticipated to reduce low level environmental offending, like littering.
- **Sustainability Policy & Community Safety Implications:** PSPOs can have a positive impact for safety in the local community.
- **Partnerships:** Surrey police – police can exercise enforcement powers.

### 8 Background papers

- The documents referred to in compiling this report are as follows:

#### Previous reports:

- PSPO Report 31 January 2017: <https://democracy.epsom-ewell.gov.uk/documents/s4867/Public%20Space%20Protection%20Orders.pdf>

#### Other papers:

- Consultation on Public Spaces Protection Order <https://www.epsom-ewell.gov.uk/sites/default/files/documents/council/PSPO%20Alcohol%20Consultation%20Document.pdf>