

PUBLIC SPACE PROTECTION ORDER - PROPOSALS TO EXPAND EXISTING

Head of Service:	Rod Brown, Head of Housing & Community
Report Author	Oliver Nelson
Wards affected:	(All Wards);
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	
Appendices (attached):	Appendix 1 – Proposed PSPO Order Appendix 2 – Police balaclava data Appendix 3 – Police ASB map Appendix 4 – Letter from Borough Commander Appendix 5 – Council evidence Appendix 6 – Proposed consultation material

Summary

To determine the policy around the future of the legacy alcohol related Public Space Protection Order.

Recommendation (s)

The Committee is asked to:

- (1) Authorise the Head of Housing and Community to carry out a public consultation on behalf of the Council on the basis of the proposed Public Spaces Protection Order outlined in appendix 1 of this report and for results of this consultation to be considered at the next meeting of the Crime and Disorder Committee, or;**
- (2) Identify which restrictions set out in Para 5 of the draft Order in appendix 1 ought to be taken forward and authorise the Head of Housing and Community to carry out a public consultation on behalf of the Council and for the results of this consultation to be considered at the next meeting of the Crime and Disorder Committee, or;**
- (3) Agree not to renew the Public Spaces Protection Order and therefore allow the existing alcohol control provisions to lapse on 22 December 2024.**

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1 Reason for Recommendation

- 1.1 The committee is not being asked to make a Public Spaces Protection Order (PSPO), at its meeting of 22 October 2024. Whatever the decision of the committee, there will be a further opportunity to consider the proposals at its next meeting, together with the results of the required consultation which itself will represent a body of evidence for consideration.
- 1.2 A decision is required as to the future of the present PSPO and three viable options have been identified as recommendations.
- 1.3 The proposals have been developed using examples in place elsewhere in Surrey and more widely and have been designed, at police request, to enable additional support in the fight against antisocial behaviour and to offer enhanced community assurance.
- 1.4 At this stage and in order to protect all options, officers consider that recommendation one is the most advantageous as it enables the council to gauge public support on the fullest range of measures without committing to anything until the results of that consultation have been received and analysed. These results will in themselves contribute to the evidential base and it is expected that they will be available in time for the March 2025 meeting of the committee.

2 Background

- 2.1 Public Spaces Protection Orders are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are intended to help ensure that the law abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
- 2.2 Local councils are responsible for making Public Spaces Protection Orders. Borough councils take the lead in England with county councils or unitary authorities undertaking the role where there is no district or borough.
- 2.3 It had been anticipated the previous government's proposed legislative changes would enable the police to propose their own PSPOs. The previous government were to bring in provisions to amend the law to allow them to take forward their own proposals. However, these provisions have not to date been re-convened by the current government and it is for the Borough Council to continue make policy in this area.

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- 2.4 This particular PSPO has its heritage in the previous Designated Public Space Orders which were a feature of the now repealed section 13 of the Criminal Justice and Police Act 2001. The existing PSPO is limited to a defined geographical boundary. It has been renewed as a PSPO on 2 occasions since then, each time for three years with some minor boundary changes.

3 Proposed changes

- 3.1 At request of the police the proposals include expansion both the geographical area of the PSPO to cover the entire borough and to provide additional community support provisions to counteract antisocial behaviour in public spaces.
- 3.2 The proposed prohibitions in the PSPO include:
- a. Harassing or intimidating residents, businesses or members of the public.
 - b. Threatening any person with violence and / or being verbally abusive towards any person.
 - c. Urinating in an open public place.
 - d. Littering or spitting with the intent to cause harassment, alarm or distress to any person.
 - e. Wearing a piece of clothing with the intent to obscure or hide their identity for the purposes of committing crime and/or anti-social behaviour.
 - f. Acting, or inciting others to act, in an anti-social manner, that is to say a manner that is likely to cause harassment, alarm or distress to any person.
 - g. Joining or remaining in a group of 2 or more people which is acting in a manner that is likely to cause harassment, alarm or distress to any person.
 - h. Consumption of alcohol following a verbal warning by an authorised person to stop. An authorised person includes a Police Constable, Police Community Support Officer, a Council Officer, or any other person authorised by the Council.
- 3.3 Appendix 1 contains the proposed PSPO whilst appendix 2-5 contain the current evidential basis on which the PSPO is being sought. It is anticipated that depending on which option the committee adopts, further evidence will arise from the consultation exercise and will be available for consideration at the next meeting of the committee. Appendix 6 contains the proposed consultation material.

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- 3.4 The proposal to expand the geographical boundary is because the evidence points towards the issues being widely spread and not confined to one area of the borough. Secondly, and to guard against displacement, it is assessed that a borough wide PSPO is the most suitable approach.
- 3.5 The threshold for determination that a PSPO is necessary is “reasonable grounds”. That is to say the council must be certain that there are reasonable grounds to make the Order. Reasonable grounds may be considered to be the lowest evidential threshold and certainly well below the criminal standard of “beyond all reasonable doubt”. Notwithstanding this, as a piece of criminal law, authorised officers need to demonstrate the criminal standard has been met in any use of the PSPO.
- 3.6 The committee will further note that the proposed restrictions have been designed to be focussed, precise, and to address the effect of the detrimental behaviour rather than activities which may not in themselves be detrimental or which target characteristics that might be shared by many other people. For example, under the existing draft it would not be an offence to wear a piece of clothing with the intent to obscure or hide identity. Were this to be the case it would almost certainly offend equalities legislation. In order for the PSPO to be engaged, this circumstance must be accompanied by evidence of them committing a crime or anti-social behaviour and so address the detrimental effect of antisocial behaviour perpetrated by those wearing ski masks, balaclavas and other face coverings evidenced in appendix 2-5.
- 3.7 Similarly, it is not the intention to criminalise anyone who chooses to form in a group for any lawful purpose and there are a vast number of positive reasons why people will come together in a public space for work, leisure, exercise or entertainment. However, the evidence points to occasions in the borough where a groups of people come together to cause harassment, alarm and distress to other innocent members of the public, businesses and residents and it is the behaviour, not the activity which requires additional control.
- 3.8 The remainder of the provisions are assessed as necessary taking into account available evidence and likely public support.

4 Public consultation

- 4.1 Should the committee determine either option one or two in the recommendations, it is anticipated that the required consultation be carried during the months of November, December and January hosted on the council’s consultation webpage and be promoted via:
 - Appearing on the council’s website news carousel
 - A social media campaign on both council and police platforms
 - A conventional media release

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- Depositing the document in all borough libraries and council community venues
- Posters in Borough Boards
- Article in E-Borough Insight
- Through engagement with youth services
- Through engagement with local colleges and universities

It is proposed the consultation be via the council's Microsoft Office forms capability accessed via a QR code or shortform web address. To support those who cannot or prefer not to use this, conventional paper forms will be either posted out to those who request them or be ready at the Town Hall reception. Additionally for those who simply prefer to email or write, it will be possible to respond in these conventional ways.

- 4.2 A copy of the proposed consultation material appears in appendix 6 which will be varied depending on which option the committee selects.

5 Risk Assessment

Legal or other duties

5.1 Equality Impact Assessment

5.1.1 None for this initial stage. However it would be expected that an Equalities Impact Assessment be prepared for the March meeting of the committee to support the decision making at that stage.

5.2 Crime & Disorder

5.2.1 The proposals are expected to enhance the protection against crime and disorder.

5.3 Safeguarding

5.3.1 None additional for the purposes of this report

5.4 Dependencies

5.4.1 None for this report

6 Financial Implications

- 6.1 The creation of PSPOs requires suitable signage to be installed in the locations where the order applies. However the costs of this will be addressed in the March report and depending on the recommendations at that time.

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6.2 **Section 151 Officer's comments:** None arising from the contents of this report.

7 Legal Implications

7.1 Section 17 of the Crime and Disorder Act 1998 states the Council must, "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;

7.2 Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 permits a local authority to make a PSPO in the areas where a particular nuisance or problem occurs which is detrimental to the local community's quality of life.

- Crime and disorder
- The misuse of drugs, alcohol and other substances
- Re-offending and
- Serious violence"

7.3 **Legal Officer's comments:** A PSPO may be considered to be an appropriate response where the Council have identified specific issues within the Borough. A single PSPO can incorporate a range of conditions targeting different ASB issues. The Order once implemented can be in place for 3 years, and may be extended beyond this for a further three-year period(s) in circumstances where certain criteria are met.

8 Policies, Plans & Partnerships:

8.1 **Council's Key Priorities:** The following Key Priorities are engaged:

- Safe and well

8.2 **Service Plans:** The matter is included within the current Service Delivery Plan.

8.3 **Climate & Environmental Impact of recommendations:** None identified.

8.4 **Sustainability Policy & Community Safety Implications:** Set out in the body of this report.

8.5 **Partnerships:** Whilst the preparation and implementation of Public Space Protection Orders falls to the Council, the delivery of outcomes against the PSPO is inherently a partnership endeavour as it is expected police will be the principal users of these proposed provisions.

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9 Background papers

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

Previous reports:

- 19 October 2021 Environment and Safe Communities Committee item 13.

Other papers:

- Home Office, 2003 - Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers Statutory guidance for frontline professionals [accessed 16/8/24].
- Local Government Association, 2018 - Public Spaces Protection Orders Guidance for councils [accessed 16/8/24]