

PUBLIC SPACE PROTECTION ORDERS

<u>Report of the:</u>	Head of Legal and Democratic Services
<u>Contact:</u>	Simon Young
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
<u>Annexes/Appendices</u> (attached):	Annexe 1 – Alcohol Consumption In Designated Public Places Orders 1-3 (of 2006, 2007 & 2008)
<u>Other available papers</u> (not attached):	None stated

REPORT SUMMARY

This report seeks authority to the making of Public Spaces Protection Orders in place of the former Designated Public Place Orders.

RECOMMENDATION (S)

That:

- (1) the Head of Legal & Democratic Services be authorised, following consultation with the Chairman and Vice-Chairman of the Committee, to make up to three Public Spaces Protection Orders;**
- (2) Any Public Spaces Protection Orders be made in accordance with the statutory process set out in the Anti-social Behaviour Crime and Policing Act 2014;**
- (3) Any Public Spaces Orders replicate so far as possible the provisions of the Orders set out in Annexe 1 and cover such other areas and related restrictions as the Head of Legal and Democratic Services considers appropriate following consultation with the local police.**

Notes

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 As part of our Key Priority of Keeping our Borough Clean and Green, we said we would take action to reduce graffiti, littering, flyposting, illegal advertising and dog fouling. Although not directly related to these issues, the making of the proposed Public Spaces Protection Orders should have an indirect benefit in ensuring that the tools are available to deal with anti-social behaviour.

2 Background

- 2.1 Under the Criminal Justice and Police Act 2001, the Council was given the power to designate certain public places. The effect of designation was to allow the Police to prevent and control individuals consuming alcohol in the designated places. Pursuant to section 12 of that Act, if a constable believed that a person was, had been or intended to consume alcohol in a designated public place, they could require the person not to do so, and could require the person to surrender any alcohol, and could then dispose of anything so surrendered as they considered appropriate.
- 2.2 Three Designation Orders were made by the Council under the 2001 Act. The first covered a number of roads and public places broadly centred on Epsom town centre; the second covered a variety of roads and places in Epsom and in Ewell; and the third covered all of the public places in Langley Vale. The local policing team has indicated that they consider the powers conferred on them by virtue of the existing orders are useful in preventing anti-social behaviour, which would otherwise occur, and in reducing some of the anti-social behaviour which does still occur, particularly in Epsom town centre.
- 2.3 The Police made use of their powers in order to reduce alcohol being consumed in the streets. The powers were particularly useful around the Derby meeting when customers were walking through the town centre to and from the Downs, and also in the evening, especially at weekends, when customers emerge from licensed premises carrying bottles and glasses.
- 2.4 The relevant provisions of the 2001 Act were repealed by the Anti-social Behaviour Crime and Policing Act 2014, which brought in a range of new powers to assist the Police, local authorities, and others to deal with anti-social behaviour. The 2014 Act contained transitional provisions under which any designation orders continued in effect in the normal way until October 2017. It is therefore important to consider whether to use the new powers to put in place similar arrangements.

- 2.5 Under the 2014 Act, it is possible to make Public Spaces Protection Orders (PSPO). Such Orders can be made where activities in a public place have had a detrimental effect on the quality of life of those in the locality or where it is likely that such activities/effects will occur. It is a requirement that the effect of the activities are considered likely to be persistent or continuing, are considered to be unreasonable, and are considered to justify the proposed restrictions.
- 2.6 PSPOs can prohibit things from being done, can require things to be done or can do both of those things. The Government's statutory guidance for frontline professionals in respect of the 2014 Act is available here: <https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>
- 2.7 The Government's stated position is that PSPOs are designed to ensure the law-abiding majority can use and enjoy public spaces safe from anti-social behaviour.
- 2.8 There is a statutory process to be followed if orders are to be made, including consultation with the local police. There will be a need to engage with others, including Surrey County Council, and such other groups as we consider appropriate. We will need to publish the order on our website and to erect sufficient notices to draw the attention of the public to the fact that an order has been made.
- 2.9 Orders may only be challenged by application to the High Court. Orders may not have effect for a period of more than 3 years, but may be extended if 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 (it does not seem that an upper limit has been set on the number of extensions). A process must be followed at the right time for an extension to be made; otherwise a new order will be required.
- 2.10 PSPOs can be varied at any time to change the restricted area or change the nature of the specific requirements or restrictions.
- 2.11 Where the statutory test is met PSPO may restrict the consumption of alcohol in much the same way as did the old designation orders, but there are a number of limitations on using the PSPO power for this end. A PSPO cannot, for example, be used to restrict consumption of alcohol in a beer garden. This is because licensing legislation already includes safeguards against premises themselves becoming centres of anti-social behaviour.

3 Proposals

- 3.1 It is proposed that a new order or orders be made to replicate the provisions of the existing Alcohol Consumption in Designated Public Places Orders, with the proviso that, following consultation with the local police, the areas covered by the new PSPOs could be adjusted to address local issues.

4 Financial and Manpower Implications

- 4.1 On the basis of the considerable area covered by the PSPO orders. It is estimated that the costs of erecting sufficient signs, to publicise the fact that a PSPO has been made and is in effect, could be in the region of £5,000 to £7,000. There is no funding within the 2016/17 or 2017/18 Environment Committee Budget to fund the costs of publicising these PSPO order(s). The cost of the work necessary to make the order(s) will need to be met from existing resources.
- 4.2 The make-up, number and location of the signs are a matter to be agreed.
- 4.3 **Chief Finance Officer's comments:** *The estimated cost of the recommended initiative could be in the region of £5,000 to £7,000. There is no funding for this initiative in the 2016/17 or 2017/18 Budgets. If Members agree the proposal recommended in this report funding for the initiative will need to be identified by officers.*

5 Legal Implications (including implications for matters relating to equality)

- 5.1 **Monitoring Officer's comments:** *The legal implications are considered in the body of the report. It is important that if the Committee authorises officers to make the proposed orders that proper consideration is given to the statutory tests for making an order at that the decision to proceed is properly documented.*

6 Sustainability Policy and Community Safety Implications

- 6.1 It is considered that the making of PSPOs in place of the existing Orders will have a neutral or beneficial effect on community safety. If, however, PSPOs were not made then, when the existing Orders cease to have effect, there is a risk that anti-social behaviour could rise and in the absence of the powers conferred by a PSPO, police officers may not be able to deal as effectively and efficiently with the issues.

7 Partnerships

- 7.1 In developing any new PSPOs, we will work closely with the local police to ensure that the PSPOs are in the terms and cover the areas required to deal with the issues with which they are confronted or believe would occur without a PSPO in place.

8 Risk Assessment

- 8.1 There are risks of anti-social behaviour if PSPOs are not made. There are no significant risks associated with making PSPOs which broadly replicate existing provisions.

9 Conclusion and Recommendations

- 9.1 It is considered appropriate that the provisions of the existing Orders are replicated in new PSPOs. It is appropriate to give officers the option to include other, related restrictions (whether adding to or adjusting either the restrictions or the places covered) in order to deal with issues as they are now experience by residents and the police. The Chairman and Vice-Chairman will be consulted before the terms of the new PSPOs are finalised. However, it is considered that any more significant changes will merit further report to and consideration by the Committee.

WARD(S) AFFECTED: (All Wards);