

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Full Council

Date: 1 December 2020

Reporting officer: Community Safety Operations Manager

Subject: Alcohol Control - Town Centre Public Space Protection Order (PSPO)

Purpose and summary of report:

To advise Full Council of the outcome of the public consultation in respect of the proposed replacement of the expired Town Centre Public Space Protection Order (PSPO) for an Alcohol Control Zone with a new three-year Order and to seek approval of the draft Order provided for consideration.

Recommendations:

1. That Full Council note the contents of the report, consider the consultation responses and endorse the draft Town Centre PSPO.

1. Background

- 1.1 Public Space Protection Orders (PSPO) were introduced as part of the reform of the Anti-Social Behaviour, Crime and Policing Act 2014 and guidance provided to Councils. The Act gives Councils the authority to implement PSPOs in response to particular issues affecting their communities.
- 1.2 The test for a PSPO is designed to be broad and focus on the impact that anti-social behaviour (ASB) is having on victims and communities. A PSPO can be made by the Council if they are satisfied on reasonable grounds
 - 1.2.1 that the activity is being carried out, or is likely to be carried out in a public space;
 - 1.2.2 has had, or is likely to have, a detrimental effect on the quality of life of those in the locality;
 - 1.2.3 is, or is likely to be, persistent or continuing in nature;
 - 1.2.4 is, or is likely to be, unreasonable; and
 - 1.2.5 justifies the restrictions imposed.

- 1.3 In July 2017, it was reported to Management Team that the Designated Public Place Order for the Town Centre was due to expire and would automatically become a Public Space Protection Order for up to 3 years, expiring on 20 October 2020. To continue to enforce restrictions on the consumption of alcohol control, then the Council needs to replace the PSPO with a new Order as there are no alternative provisions in law to facilitate this.
- 1.4 The PSPO covers an area of the Town Centre identified on the map provided in Appendix 2. This is an area where alcohol-related ASB continues.
- 1.5 Community Impact Statements have been collated by Kent Police, including those taken from businesses in the area. Kent Police are fully supportive of the proposed new Order.
- 1.6 In respect of an appeal, any challenge to the Order must be made in the High Court by an interested person within six weeks of the Order being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means only those who are directly affected by the restrictions have the power to challenge the Order. If the Order is later varied, it can also be challenged.
- 1.7 The Order can be challenged on two grounds - that the Council did not have the power to make the order or to include particular prohibitions or requirements; or, lack of compliance with one of the requirements of the legislation e.g. failing to complete a public consultation exercise.

2. Previous Use of the Town Centre PSPO

- 2.1 The primary means for addressing alcohol related ASB is to report cases to Kent Police. Kent Police Officers have uses powers within the PSPO to remove alcohol from a person causing nuisance. This is one of a range of powers that the Police can use to deal with incidents of this nature, including those related to public order offences and the application of Dispersal Powers.
- 2.2 Gravesham Borough Council Officers are also authorised to carry out the function of enforcement of the PSPO through issuing Fixed Penalty Notices (FPNs) – a fine of £75, leading to prosecution if unpaid.
- 2.3 Kent Police received 92 alcohol-related ASB incident calls between June 2019 and May 2020. This does not take into account the number of times Police Officers have used the breach of conditions contained within the PSPO as a means of preventing incidents taking place.
- 2.4 Council Safer Place Officers used the PSPO to discourage and deter alcohol consumption on more than 50 occasions between June 2019 and September 2020.
- 2.5 The Order states that no person will be permitted to consume alcohol in public spaces in the area identified on the map in Appendix 2, other than within the curtilage of public houses and licensed premises. A person seen to be consuming alcohol within a restricted area will be in breach of the Order. An Authorised Officer will, in the first instance, explain to them that they are in an Alcohol Restricted Zone and request them to stop drinking the alcohol and/or ask them to surrender alcohol in open containers. Should the same person be seen consuming alcohol in an Alcohol Restriction Zone again within a reasonable time

and after having been advised and warned, a Fixed Penalty Notice (FPN) will be issued.

- 2.6 There is no Appeal process against the issue of a FPN, but representations can be made to the Council to dispute it.
- 2.7 A prohibition in a PSPO on consuming alcohol does not apply to premises authorised by a premises licence to be used for the supply of alcohol.
- 2.8 Currently, alcohol consumption control is enforced by Kent Police and the Safer Place Officers (SPO) whilst on patrol. 7 FPNs have been served since the current PSPO was made. It is considered that this, along with compliance with the terms of the Order, demonstrates that the PSPO is effective.
- 2.9 The benefits of the PSPO enables Police and Safer Place Officers to remove alcohol from individuals, to issue Fixed Penalty Notices and tackle anti-social behaviour associated with street drinking.

3. Public and Stakeholder Consultation

- 3.1 Officers undertook the necessary stakeholder and public consultation in accordance with the requirements of the Antisocial Behaviour Crime and Policing Act 2014. Local authorities are obliged to consult with the local chief officer of police, the police and crime commissioner, stakeholders, and the general public.
- 3.2 The Chief Constable of Kent Police was consulted and is supportive of the Order, as is the Kent Police and Crime Commissioner.
- 3.3 Supporting witness statements were received from the four Kent Police Town Centre Officers, G-Safe – representing businesses in the Town, Gravesend Gurdwara, Tesco Metro and the Council's Community Safety team.
- 3.4 A Public Consultation exercise was completed via the Council's website and with the use of social media by the Council's Communications Team. 152 responses were received to the consultation with 94.74% supporting the condition to manage restrictions to alcohol consumption in the area. 98% of respondents lived in Gravesham.
- 3.5 Respondents to the consultation were given the option to comment on how the consumption of alcohol had affected them directly. In summary responses referred to the following:
 - disturbance outside homes/ being unable to sleep at night
 - associated waste being left in the area
 - abusive language
 - not feeling safe, threatened or intimidated, especially when walking past drinkers or through the Town Centre
 - occasional fighting
 - unable to use a park
 - drinkers seen urinating in the street
 - children distressed at seeing group drinking in the street
 - associated drug use

- making visits to town an unpleasant experience – a 'no-go' area
- 3.6 The Council's Management Team has considered the responses to the consultation and endorsed the draft PSPO.
- 3.7 The proposal to replace the PSPO with the new Order does not incorporate any changes to the area previously covered. Any changes to that would require further consultation to take place.

4. Next Steps

- 4.1 Subject to Council approving the Town Centre Public Space Order, the Head of Legal Services will make the Order and instruct officers to proceed in publishing it on the Council's website and sharing it with the Parish and County Councils, as required by legislation, before it comes into effect on such future date to be determined.

5. BACKGROUND PAPERS

Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

IMPLICATIONS	APPENDIX 1
Legal	<p>There is a statutory requirement to consult prior to making, extending or varying any PSPO.</p> <p>The Order can be challenged on two grounds; that the Council did not have the power to make the Order or to include particular prohibitions or requirements; or that one of the requirements of the legislation, such as consultation, has not been complied with.</p>
Finance and Value for Money	Amended signage for the Town Centre, at a cost of approximately £300 will be required and can be covered from Community Safety budgets.
Risk Assessment	Risk that challenges will be receive to the proposed Order. The consultation exercise has not evidenced the prospect of a challenge.
Data Protection Impact Assessment	<p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data? A definition of each type of data can be found on the Information Commissioner's Office website via the above links.</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? No</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk.</p>
Equality Impact Assessment	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No</p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>
Corporate Plan	6. #Place - a proud community; where residents call a safe, clean and attractive borough their home
Climate Change	No implications.
Crime and Disorder	Addressing this issue will improve the quality of life of those living in the area by reducing the risks/disturbances caused by those consuming alcohol within the area. This will in turn also reduce environmental crime such as littering.
Digital and website implications	The existence of the PSPO will be publicised on the Council's website and social media.

**Safeguarding
children and
vulnerable adults**

No implications.