

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Full Council
Date: 17 October 2023
Reporting officer: Community Safety Operations Manager
Subject: Renewal of Town Centre Public Space Protection Order

Purpose and summary of report:

To advise Full Council of the outcome of the public consultation in respect of the proposed renewal of the Town Centre Public Space Protection Order (PSPO) for an Alcohol Control Zone for three-years and to seek approval to renew the Order.

Recommendations:

- a) That Full Council note the contents of the report, consider the consultation responses and endorse the draft Town Centre PSPO.
- b) Agree to renew the Town Centre Alcohol Control Public Space Protection Order.
- c) Delegate powers to extend the PSPO to Chief Executive.

Key Implications:

Item	Implications
Legal	<p>“Under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act), a local authority may make a PSPO in the areas where a particular nuisance or problem occurs which is detrimental to local community’s quality of life. In order to issue a PSPO, the council must be satisfied on reasonable grounds that the two statutory conditions set out in s59 (2) and s59 (3) are met and that the restrictions are reasonable and proportionate. The same tests apply when considering whether or not to renew an existing PSPO. The conditions that must be met are:</p> <p>Section 59 (2) of the 2014 Act states that the first condition is that:</p> <p>(a) activities carried on in a public place within the authority’s area have had a detrimental effect on the quality of life of those in the locality, or</p> <p>(b) It is likely that activities will be carried on in a public place within that area and that they will have such an effect.</p> <p>Section 59(3) of the 2014 Act states that the second condition is that the effect, or likely effect, of the activities –</p>

	<p>(a) Is, or is likely to be, of a persistent or continuing nature,</p> <p>(b) Is, or is likely to be, such as to make the activities unreasonable, and</p> <p>(c) Justifies the restrictions imposed by the notice.</p> <p>Before deciding to make or renew the PSPO, the council must comply with certain statutory requirements relating to publication, consultation, notification, and information in respect of the proposed PSPO in the relevant areas. “</p>
Finance and Value for Money	Associated costs for implementation for signage and ticket books. Cost expected to be minimal and met from existing budgets.
Corporate Plan	#1 People: a proud community; where residents can call a safe, clean and attractive borough their home.
Climate Change	No direct implications.

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 specific 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 An Alcohol Control Zone has been in place since in Gravesend Town Centre since 2017 and in December 2020 Full Council agreed to this being consolidated within the PSPO for a further 3 years, expiring on 2 December 2023. To continue to enforce restrictions on the consumption of alcohol control, the Council needs to renew the PSPO.
- 1.4 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.

- 1.5 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.
- 1.6 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.
- 1.7 The Chief Executive has delegated powers to approve any extension, variation and discharge of a Public Space Protection Order. It is a requirement for Full Council to approve renewal of the Order and delegate to the Chief Executive. Post approval Legal can then be instructed to complete the Order. It will then be published on the Council's website accompanied by a press release. This will give time for any new signage or publicity to be agreed, ordered and installed prior to commencement of the new Order on 3 December 2023.

2. 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 260 alcohol-related ASB incident calls between September 2022 and September 2023. 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 22 Fixed Penalty Notices have been issued since April 2021. 6 received Court fines and costs ranging from £100 to £500.
- 2.5 Town Centre Police have provided a statement to support the renewal of the PSPO stating they 'regularly seize alcohol to prevent issues and issue tickets to those who do cause issues' and 'Businesses continue to report those street drinking and they report the issues it causes for their businesses, which shows how much of a necessity the PSPO still is' The PSPO has been used to discourage and deter alcohol consumption on numerous occasions by Town Centre Police.
- 2.6 The Order states that no person will be permitted to consume alcohol in public spaces in the area identified on the map in Appendix 1, 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.
- 2.7 There is no Appeal process against the issue of a FPN, but representations can be made to the Council to dispute it.
 - 2.8 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.
 - 2.9 Currently, alcohol consumption control is enforced by Kent Police whilst on patrol. It is considered that this, along with compliance with the terms of the Order, demonstrates that the PSPO is effective. The benefits of the PSPO enables Police and 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. Gravesham Borough Council consultation period runs for an 8 week period to 2 October 2023. 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 happy for the Council to proceed with extending the Order. Kent Police Chief Inspector responded on behalf of the Chief Constable stating; *The PSPO is a useful tool to assist in tackling anti-social behaviour in the town centre. The order enables fixed penalty notices to be issued as well as the opportunity to enforce alcohol confiscations which can prevent alcohol fuelled crime and ASB. It also has the effect of often displacing the individuals concerned in ASB to a lower footfall area or preferably, home. The order also supports us identifying and recording details of those impacting negatively on the town and if for example they are routine street drinkers associated to problems in the town, then after appropriate intervention, warnings and alcohol seizures, we can work with the ASB officer to issue a Community Protection Warning. We have case studies of how this has been effective which showcase the value of the PSPO in making the town a safer place to work, visit and live.* The Kent Police and Crime Commissioner is also supportive of the Order.
- 3.3 Supporting witness statement from Kent Police.
- 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. To date 78 response have been received to the consultation with 92% supporting the condition to manage restrictions to alcohol consumption in the area. 63% responded as a local resident.
- 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:
 - PSPO has improved quality of life and safety in the area
 - the renewal of this protection order, will improve the community in

Gravesham and stop those cause ASB in town.

- It will make the town a more pleasant place to visit
- We need it to work. Shouldn't it renew automatically.
- Useful to have in place for those drinking alcohol in public that are causing a nuisance.
- It will assist in helping people feel safer.
- I felt much safer once the alcohol exclusion zone came in. We just need more police to enforce it.
- Alcoholism is a massive problem in Gravesend. This is a fantastic proposal. Keep alcohol off the streets.
- I think it's a great idea.

3.6 The Council's Management Team has considered the responses to the consultation and endorsed the draft PSPO (Appendix 1).

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 3 December 2023.

5. Appendices

5.1 The following documents are to be published with the report:

5.2 Appendix One draft PSPO Order.

6. Background Documents

6.1 There are no background documents.

6.2 The following background documents were used:

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Secondary Implications	
Risk Assessment	Not applicable
Data Protection Impact Assessment	<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>a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data?</p> <p>A definition of each type of data can be found on the Information Commissioner's Office website via the above links.</p> <p>No</p>
	<p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice?</p> <p>Click here to start typing</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> <p>Click here to start typing</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.</p> <p>Yes. Consideration given to vulnerable persons who may have addictions relate to the Order. Relevant referrals can be made.</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.</p> <p>Not applicable</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>
Crime and Disorder	The Crime and Disorder Act 1998 places a duty on Local Authorities to work with statutory partners to prevent crime and disorder in its area. The proposal contained in this report is put forward as a means of increasing the positive impact that the council will be able to have in addressing local priorities through a locally accountable Community Safety Partnership (CSP).
Digital and website implications	Promote and advertise new Order.
Safeguarding children and vulnerable adults	The safeguarding of young people and adults is a very high priority for the Gravesham; the proposal contained within this paper does not affect this and local multi-agency approaches to tackling street drinking.