



<b>Report for:</b>	<b>Cabinet</b>
<b>Date of meeting:</b>	<b>20<sup>th</sup> October 2020</b>
<b>Part:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Alcohol related Public Spaces Protection Orders</b>
Contact:	Councillor Andrew Williams, Portfolio Holder for Corporate and Contracted Services  Author/Responsible Officer: Mark Brookes – Assistant Director (Corporate and Contracted Services)
Purpose of report:	To consider the establishment of alcohol related Public Spaces Protection Orders in the Borough to continue to provide an additional means of controlling the consumption of alcohol having a detrimental effect on the quality of life for those living in, working in Dacorum
Recommendations	1. That Cabinet Agree to consult on the establishment of alcohol related Public Spaces Protection Orders for the areas previously covered as outline in section 2.  2. To report the outcomes of the consultation to Cabinet to decide to whether to reinstate the PSPO.
Corporate Objectives:	Safe and Clean Environment <ul style="list-style-type: none"> <li>• Maintain a clean and safe environment</li> </ul>
Implications:	<u>Financial</u> In areas where an order has effect, the local authority must arrange for the display of signage advising of the effect of the order. There is no prescribed format nor size requirements for these signs, and costs will ultimately depend upon the number of signs required and the design/materials used. There will be ongoing maintenance costs to replace any damaged signage. If the previous PSPOs are simply reinstated, the existing signs

<p>'Value For Money Implications'</p>	<p>can be updated to reflect the change in date that these are in force.</p> <p>It is proposed that enforcement of the PSPO will be carried out within existing resources, together with contracted services, and with assistance from Hertfordshire Constabulary.</p> <p><u>Value for Money</u> PSPO's are seen as a more cost-effective means of controlling the activities in question than under byelaws, also providing a wider range of enforcement options.</p>
<p>Risk Implications</p>	<p>There will be risks associated with Council enforcement officers who may be tasked with enforcing the PSPO and appropriate training will need to be maintained. Individual risk assessments will be completed for the enforcement activity and all reasonable precautions taken to minimise any risk. Although this burden is likely to be lessened by the use of external contractors to take enforcement action.</p> <p>There are also reputational risks in terms of the Council being perceived as enforcing against vulnerable persons and seeking to criminalise certain behaviours which wouldn't normally attract fixed penalty notices or prosecution for non-payment.</p> <p>The PSPOs will raise expectations that prohibited behaviours will be eliminated entirely; however due to difficulties in identifying some of the contraventions and taking a proportionate approach to enforcement there will not always be immediate results which will be noticeable to the public.</p>
<p>Community Impact Assessment</p>	<p>A Community Impact Assessment will be completed during the consultation period</p>
<p>Health And Safety Implications</p>	<p>Some H&amp;S implications may arise from the enforcement of orders, and will be incorporated within individual service risk assessments for authorised enforcing officers.</p>
<p>Monitoring Officer/S.151 Officer Comments</p>	<p><b>Deputy Monitoring Officer:</b></p> <p>Section 59 of the 2014 Act gives local authorities the powers to create PSPOs to tackle anti-social behaviour.</p> <p>Further to section 72 of the 2014 Act, local authorities must consult formally through the Chief Officer of Police and the local policing body. The recommendations in this report comply with the requirements of the 2014 Act.</p> <p><b>Deputy S.151 Officer:</b></p> <p>No additional comments to add to this report.</p>

Consultees:	Hertfordshire Constabulary (evidence relating to existing PSPOs previously requested)  Public via the website and via Maylands Business Centre business update
Background papers:	Home Office – Reform of anti-social behaviour powers: Statutory guidance for frontline professionals (section 2.6)  Home Office - Anti-social behaviour powers Statutory guidance for frontline professionals Updated December 2017
Glossary of acronyms and any other abbreviations used in this report:	PSPO – Public Spaces Protection Order  DPPO – Designated Public Places Order  CSAS – Community Safety Accreditation Scheme  FPNs – Fixed Penalty Notices  2014 Act – Anti-social Behaviour, Crime and Policing Act 2014

## 1. Background

1.1. Under the 2014 Act, local authorities may make orders to prohibit specified activities, and/or require specified activities to be carried on in accordance with certain requirements, within a designated area in the public domain, which may include public highways and footways, parks and open spaces, pedestrianised areas, or similar. Such orders are known as Public Spaces Protection Orders (PSPO).

1.2. PSPO's can be used by authorities to control a variety of problematic behaviours which satisfy two statutory conditions:

*“The first condition is that—*

- (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*
- (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.*

*The second condition is that the effect, or likely effect, of the activities—*

- (a) is, or is likely to be, of a persistent or continuing nature,*
- (b) is, or is likely to be, such as to make the activities unreasonable, and*
- (c) justifies the restrictions imposed by the notice.”*

1.3. Prohibitions or requirements on activities covered by a PSPO must be reasonable in order to:

- (a) prevent the detrimental effect from continuing, occurring or recurring, or
- (b) reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

- 1.4. Where an alcohol related PSPO is in force, it is a criminal offence to do anything which is prohibited under the Order, or to fail to comply with requirements of the Order. Persons guilty of such offences are liable, on summary conviction, to a fine not exceeding level 2 on the standard scale (currently up to £500). Offences may also be disposed of by way of a fixed penalty notice of up to £100, payable to the local authority.
- 1.5. PSPOs may be enforced by a police officer, PCSO, or a person authorised by the local authority for that purpose. The Police and Council have limited resources which can be available for such enforcement proactively, so it is likely that if the PSPOs are put back in place the powers will be used reactively in areas where problems arise. The use of external contractors could have a positive impact on the proactive enforcement of these orders where necessary.
- 1.6. The PSPOs can last for a period of up to 3 years. Orders may also be varied or discharged by the local authority at any time during their validity.
- 1.7. Prior to making, extending, varying or discharging a PSPO, a local authority must:
- Consult the chief officer of police and the Policing and Crime Commissioner for the applicable area; any community representatives that it is thought appropriate to consult; and the owners/occupiers of land included within the restricted area;
  - Publish the draft Order (or details of variation/discharge proposal);
  - Notify any parish/town councils within the restricted area, and the County Council;
- 1.8. With regards to its proposals, the authority must also consider its proposed restrictions against the rights of freedom of expression (Article 10) and assembly (Article 11) under the European Convention on Human Rights. The proposed restrictions have been considered against the rights in Article 10 and 11 but it is not considered that there will be any infringement on these rights. If there is any infringement it is considered that it is proportionate for the prevention of disorder and crime.
- 1.9. Prohibitions on alcohol consumption will not apply to any part of a licensed premises, including beer gardens and terraces, with the expectation that the management of those premises will control the consumption of alcohol within the curtilage of their premises, under threat of a licence review if they failed to do so. Public spaces which are licensed for the sale of alcohol (e.g. parks licensed for events) are also exempted at times when alcohol is being lawfully sold there.
- 1.10. PSPO's may be challenged in the High Court by any person who lives in, regularly works in or regularly visits a restricted area, within 6 weeks of an Order being made or varied.

## **2. Alcohol specific PSPOs**

- 2.1. The Council has previously had 6 alcohol specific PSPOs in force which expired in October 2020 and covered the following areas:

- Hemel Hempstead town centre, Gadebridge Park, Old Town, Randall Park
- Berkhamsted and Northchurch
- Bovington
- Boxmoor
- Evans Wharf, Aspley Lock
- Frogmore End, Durrants Hill Road

2.2. The plans with the precise areas that were covered by these orders are at Appendix A. The areas covered by these PSPOs were suggested by the Police and approved by the Licensing Committee when they were first brought into force in 2006 and 2007 and combine to provide wide coverage, covering all publicly accessible places such as highways, squares, pedestrian areas, public conveniences, doorways, entrances and other open areas within the administrative area of the Council.

2.3. The challenges experienced with these PSPOs previously have related to the resources required to proactively enforce them, and it has been difficult to obtain any useful information as to evidence of their success as a result.

2.4. It is always difficult to quantify the success of such measures where it is possible that simply having the measures in place could have a positive impact on the decisions of those who may choose not to carry on relevant activities in those areas as a result, as this would not be captured in any enforcement data.

2.5. A 12 month PSPO enforcement service pilot that is proposed to take place from July 2021 would significantly increase the Council's proactive and responsive capability in regards to enforcement against the PSPO, and would provide better quality data for future evaluation of them.

### **3. Consultation**

3.1. If Cabinet is satisfied that the relevant statutory requirements are met, a consultation will commence at the earliest opportunity for a six week period. Following the consultation a review of responses would be undertaken to ascertain the level of support for continuing the Order.

### **4. Recommendations**

4.1. To consult on re-establishing the Alcohol related Public Spaces Protection Orders, applying to the restricted areas as shown at Appendix A,

