

REPORT TITLE: PUBLIC SPACE PROTECTION ORDER REVIEW

15TH SEPTEMBER 2020

REPORT OF CABINET MEMBER: BUILT ENVIRONMENT AND WELLBEING

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WARD(S): WINCHESTER TOWN WARDS

Purpose

For the purpose of Section 60 under the Anti-social behaviour, Crime and Policing Act 2014 the Council has a statutory duty to review the current Public Spaces Protection Order (PSPO).

The Licensing and Regulation Committee is responsible for approving and authorising the publication of extension requests for the current PSPO beyond October 2020.

To support the decision making process, this report provides the background information in relation to the legislation and current status of the Alcohol Control Zone.

RECOMMENDATIONS:

1. That the Committee approve the extended Public Open Space Protection Order and publication and notification of the Order.
2. Authorise the Strategic Director Services, in consultation with the Cabinet Member for Built Environment and Wellbeing, to extend the timeframe of the Public Spaces Protection Order to October 2023.

IMPLICATIONS:

1. COUNCIL PLAN OUTCOME:

1.1 **Tackling the Climate Emergency and Creating a Greener District**

1.2 The Neighbourhood Services Team deliver against the Environmental Protection Act 1990 (as amended by The Clean Neighbourhoods and Environment Act 2005).

1.3 Anecdotally, there is a correlation between those causing alcohol associated anti-social behaviour and detritus found within the same locations e.g. cans/glass bottles. By managing alcohol fuelled anti-social behaviour and dealing with the littering issues in public places, the partnership is helping to improve the environment for others who are visiting, working or living in Winchester.

1.4 **Homes for all**

1.5 Winchester is considered to be rich in support services and that can mean that as a city we are also a place where transient individuals gravitate towards. Working in partnership with other agencies we will endeavour to engage with individuals at the offset and it's usually at that point that a disclosure is made about housing circumstances. In line with homeless legislation, this often results in support provision being put in place to help reconnect the individual to their area of origin or the arrangement of an appointment with housing options (circumstance dependant).

1.6 **Vibrant Local Economy**

1.7 The Community Safety Partnership (CSP) works collaboratively with businesses and partner agencies to reduce crime and disorder issues. Promoting a safe and vibrant environment for those visiting, working and living in Winchester is an important part of that process.

1.8 The Public Spaces Protection Order (PSPO) provides Hampshire Constabulary with the power to request an individual surrenders their alcohol when it is linked to anti-social behaviour. This supports the Partnerships aim to reduce alcohol related anti-social behaviour and improve the feelings of public safety within the night time economy and for those using open spaces.

1.9 The City is part of the Winchester Business Improvement District and that along with the delivery of the PSPO is likely to provide new enterprise with assurance that crime and disorder issues will be managed.

1.10 **Living Well**

1.10 The overall aim of the PSPO is to reduce alcohol related incidents that cause alarm, harassment and distress to those using our open spaces.

1.11 The PSPO provides a greater opportunity for partners to signpost those who are entrenched in alcohol abuse to support services.

1.12 **Your Services, Your Voice**

1.13 The CSP is proud of its strong partnership ethos and actively promotes the use of “You Said, We Did” slogans. This is demonstrated in the delivery of community projects that have been instigated because of public concern around crime and disorder.

1.14 In order to seek the views of a wider public audience the CSP has incorporated questions specifically related to the Alcohol Control Zone (ACZ) within the annual Anti-Social Behaviour Satisfaction Survey incorporated into the PSPO Report (Appendix 1).

2. FINANCIAL IMPLICATIONS

2.1 Any procurement exercise needed to purchase replacement signage will be undertaken in accordance with the Council’s Contract Procedure Rules and Public Contract Regulations 2015 (PCR2015).” An audit was completed in 2018 of the current signage so we anticipate any cost implications would be minimal for additional signage. Any work to identify these would be undertaken within current staffing levels.

3. LEGAL AND PROCUREMENT IMPLICATIONS

3.1 The Anti-social Behaviour, Crime and Policing Act 2014 provides a broad legal framework within which PSPOs can be implemented. Orders can be introduced in a specific public area where the local authority is satisfied on reasonable grounds that certain conditions have been met. The Home Office statutory guidance re issued in December 2017 states that proposed restrictions should focus on specific behaviours and be proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.

3.2 A PSPO can last for up to three years, after which it must be reviewed. If the review supports an extension and other requirements are satisfied, it may be extended for up to a further three years. There is no limit on the number of times an Order may be reviewed and renewed. The legislation sets out a number of additional requirements for consultation and communication before an Order is introduced, once it is implemented and where it is extended, varied or discharged.

3.3 Prior to extending a PSPO the city council is statutorily obliged to consult with the local chief officer of police; the police and crime commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives.

- 3.2 The City Councils constitution states that the Licensing and Regulation Committee will determine all applications to designate an area a PSPO under Section 60(3) of the Anti-Social Behaviour, Crime and Policing Act 2014.

3 WORKFORCE IMPLICATIONS

- 4.1 Current signage will be reviewed and updated as appropriate within existing resources.

4 PROPERTY AND ASSET IMPLICATIONS

- 4.1 None

5 CONSULTATION AND COMMUNICATION

- 6.1 The Community Safety Partnership undertook the Anti-Social Behaviour satisfaction survey December 2019. The survey incorporated specific questions around the Alcohol Control Zone. In line with section 59 of the legislation, those responses have also been incorporated into the PSPO Review (Appendix 1).
- 6.2 A survey was sent out to partners who work within the current ACZ to seek their views, organisational experience and working knowledge of the current ACZ.
- 6.3 Key partners involved in the discussions included the police District Commander, Winchester BID Rangers, Winchester Churches Nightshelter, Trinity, and Winchester Street Pastors.
- 6.4 Partner responses showed they are in favour of the proposed extension.
- 6.5 CCTV data is obtained on a monthly basis which supports the monitoring process in relation to the ACZ e.g. public order.
- 6.6 Public Order Offences which resulted in arrest and reported by Hampshire Constabulary Police Licensing Officer, Licensing and Alcohol Reduction Team shows a 65% reduction in substance related public order offences during the reporting period 01.10.2016-31.10.2019.

7 ENVIRONMENTAL

- 7.1 The Public Space Protection Order (known as the Alcohol Control Zone) promotes a positive and safe environment for those using open spaces, without fear of witnessing alcohol fuelled ASB.

8 EQUALITY IMPACT ASSESSEMENT

- 8.1 A full Equality Impact Assessment has been completed (Appendix 3)

9 DATA PROTECTION IMPACT ASSESSMENT

9.1 None

10 RISK MANAGEMENT

Risk	Mitigation	Opportunities
<i>Property</i>	None	None
Community Support normally managed by Bid Rangers and Police not in place and the most prolific individual's behaviour is not addressed.	The most prolific anti-social individuals coming to attention of the CSP can be referred to a multi-agency case conference meeting whereby a plan to address their behaviour or the offer of support can be put in place.	To signpost to appropriate support services.
<i>Timescales</i> - To meet the legislation requirement the PSPO must be in place before or on 25 th October 2020.	Report being presented to Licensing and Regulation Committee September 2020.	Wider publication of the order e.g. Social media and local publications or newspapers.
<i>Project capacity</i>	None	None
<i>Financial / VfM</i>	N/A	N/A
Legal- Statutory duty in place to deliver against Government legislation: Crime and Disorder Act 1998. Anti-Social, Crime and Policing Act 2014	PSPO report presented to L&RC for approval in advance of the deadline of October 2020. Equality Impact Assessment completed.	N/A
<i>Innovation</i>	N/A	N/A
<i>Reputation</i> - Partnership working. Hampshire Constabulary are keen for the PSPO to continue in its current guise. Any delay in meeting the extension deadline of October 2020 may impact on the credibility of the partnership.	PSPO in place until 2023.	Relaunch of the current PSPO provides additional public education and acts as a reminder to partners about the use of powers available them.
<i>Other</i>	N/A	N/A

11. SUPPORTING INFORMATION:

- 11.1 The original Designated Public Place Order (DPPO) was authorised in 2005 and launched in 2006. It was subsequently extended in 2007 to cover the surrounding areas of the city. (Appendix 2)
- 11.2 A review of the DPPO was undertaken in July 2009 in accordance with Government guidelines and as a consequence of a Human Rights challenge (Nationally) the CSP decided to change the name from Alcohol Exclusion Zone to Alcohol Control Zone. (Appendix 4)
- 11.3 A change in legislation following a review of the Anti-Social Behaviour, Crime and Policing Act 2014 allowed CSPs to automatically carry forward the disbanded DPPO in the form of a PSPO for a further period of 2 years without review (This commenced in October 2018). Government legislation dictates that where the automatic carry forward took place a further review would be undertaken and if appropriate approved for a further 3 years no later than 25 October 2020.
- 11.4 Under s72 of the of the Anti-Social Behaviour, Crime and Policing Act 2014 there is a requirement to consult, publicise and notify those likely to be affected by the PSPO before it is extended. Subsequently a review of the current PSPO has been undertaken in accordance with those Government guidelines and if the authorisation for publication is approved by Committee it will remain in place for a further 3 years beyond 25 October 2020.
- 11.5 Breach of an order (refusing to give up alcohol when requested by a police officer) is a criminal offence, which can result in the issue of a Fixed Penalty Notice (FPN) of £100 or lead to prosecution. If found guilty of the offence, an individual can be fined up to a maximum of £1000. Under 18yrs will not be issued with FPN's.
- 11.6 Hampshire Constabulary Police data related to arrestable public order offences, showed that in the period between 2016 - 2019 Winchester saw a 65% reduction in substance related offences (includes alcohol). To date our records show that no FPN's have been issued for non-compliance which would imply that current early interventions are working.
- 11.7 The PSPO is not a ban on public drinking, it will only be acted upon when complaints from the public are received e.g. families/friends can still legitimately have a picnic in the open space on the proviso that no complaints are received.

- 11.8 PSPO's are not intended to target individuals for anything other than alcohol related anti-social behaviour which is having an unreasonable and detrimental effect on a person's quality of life. A full Equality Impact Assessment has been completed to ensure we adhere to the Human Rights of all, taking a balanced view with regards to enforcement procedures at all times.
- 11.9 The PSPO provides uniformed police officers with the power to require a person to stop drinking in a public place and as appropriate to surrender their alcohol if their behaviour is directly linked to their drinking. The order states that 'it is an offence to drink alcohol in public within this area when asked not to do so by a police officer'.
- 11.10 Where Licensed premises have responsibility for land adjacent to a curtilage or where consumption is associated with tables and chairs placed on the highway with the Council's consent e.g. pub gardens, cordoned areas, eateries it will not be considered to warrant the use of PSPO enforcement legislation because there are already powers available within the statutory licensing regulations.
- 11.11 Historically, a local agreement with Winchester City Council and District Police Commander was put in place which allowed for the temporary disbandment of the order whilst events in the city take place, with a condition that it resume 24 hours after it ends e.g. the Hat Fair. It is proposed that this condition will not change within the extension.
- 11.12 Section 72 Allows for openness and accountability so before making, varying, extending or discharging a PSPO, the council must carry out the necessary publicity and necessary notification (if any) in accordance with section 72(3) of the Anti-social Behaviour, Crime and Policing Act 2014 – This has been completed (Appendix 1)
- 11.13 We have considered the discretion to widen the powers within the PSPO, the current data does not support using the powers for anything other than alcohol related ASB.
- 11.14 Throughout the last 2 years alcohol related ASB has generally shown a reduction in incidents as recorded by the Office of the Police and Crime Commissioner. This supports the case that early intervention is beneficial in the context of the extension of the PSPO. (Appendix 1)

12 OTHER OPTIONS CONSIDERED AND REJECTED

There is an option to not extend but this was rejected as not extending would remove the ability to use early intervention such as the confiscation of alcohol and may increase public order. This allows the Police to deal with lower level alcohol fuelled anti-social behaviour at the offset. Should they not have these powers the anti-social behaviour would need to escalate before the next level was appropriate and more robust interventions put in place.

Recommendations

- Extend for another three years as outlined in this report as not extending the Public Space Protection Order may result in:
 - a) Reduced public confidence
 - b) There is also a lack of other powers to remove alcohol
 - c) Increase in alcohol related crime
- Evidence would suggest that the current Public Space Protection Order is used weekly and that the power to take possession of open vessels to prevent alcohol related behaviour can remove the risk of serious harm and voluntary disposal of alcohol when approached by Police.
- Using the information provided from Police analysts, interviews, surveys, anecdotal evidence and unanimous agreement from the Strategic Partnership that the current Public Space Protection Order is fully supported in the extension past October 2020.

13 BACKGROUND DOCUMENTS:-

Public Space Protection Order – Guidance for Councils – LGA

<https://www.local.gov.uk/public-spaces-protection-orders-guidance-councils>

LR211 EXTENSION OF THE ALCOHOL CONSUMPTION DESIGNATION ORDER
MARCH 2007

<https://democracy.winchester.gov.uk/data/licensing%20&%20regulation%20committee/200703011830/agenda/lr0211-aezreport.pdf>

LR223 EXTENSION OF THE ALCOHOL CONSUMPTION DESIGNATION ORDER JUNE
2007 <https://democracy.winchester.gov.uk/data/licensing%20&%20regulation%20committee/200706071830/agenda/lr0223-alcoholdesignationorderextensionreportplusapps.pdf>

APPENDICES:

Appendix 1. PSPO Report

Appendix 2. Alcohol Control Zone Map

Appendix 3. Equality Impact Assessment (Full version)

Appendix 4. Winchester Alcohol Exclusion Zone – Review May 2009

Appendix 5. Alcohol Exclusion Designated Order 2007