

REPORT TITLE: RENEWAL OF ALCOHOL CONSUMPTION PUBLIC SPACE PROTECTION ORDER 2020

5 SEPTEMBER 2023

REPORT OF CABINET MEMBER: Cllr Becker Cabinet Member for Communities and Engagement

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WARD(S): WINCHESTER TOWN WARDS

PURPOSE

For the purposes of Section 60 under the Anti-social behaviour, Crime and Policing Act 2014 the Council has a statutory duty to review the Alcohol Consumption Public Space Protection Order. The current PSPO expires on 14 September 2023 and will expire if not extended.

A Public Space Protection Order 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.

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 extension of the Public Open Space Protection Order for a further 3 years to 14 September 2026 be agreed; and
2. That the Strategic Director Housing Services, be authorised to carry out the statutory publication and notification requirements for the extended Order.

IMPLICATIONS:1 COUNCIL PLAN OUTCOME1.1 **Tackling the Climate Emergency and Creating a Greener District**

1.2 N/A

1.3 **Homes for all**

1.4 Winchester is considered to be rich in support services and that can mean that as a city it is a place which transient individuals gravitate towards. Working in partnership with other agencies, officers endeavour to engage with individuals and often a disclosure is made about housing circumstances. In line with homeless legislation, this can result in support provision being put in place to help reconnect the individual to their area of origin or the arrangement of an appointment with the Housing Options team (circumstance dependant).

1.5 **Vibrant Local Economy**

1.6 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.

1.7 The Alcohol Consumption Public Spaces Protection Order (PSPO) provides Hampshire and Isle of Wight Constabulary with the power to request an individual surrenders their alcohol when it is linked to anti-social behaviour. This supports the Partnership's 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.

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

1.9 **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.

2 FINANCIAL IMPLICATIONS

- 2.1 Any identified need 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 with additional signage added at a location identified in 2023. It is anticipated that any cost implications would be minimal for additional signage and ongoing work to identify these would be undertaken within current staffing and budget 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 reissued in February 2018 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 When considering whether to make or extend the period for a PSPO a local authority must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights. The limited impact of the restrictions imposed by the PSPO are considered compatible with rights under the Convention as the restrictions are lawful, necessary and proportionate having regard to the evidence and detrimental impact of alcohol related anti-social behaviour on people living, working or visiting the area of the PSPO.
- 3.4 Prior to extending a PSPO the council is required to consult with the local chief officer of police, the office of the police and crime commissioner, Hampshire County Council and appropriate community representatives and, where practicable, owners and occupiers of land affected by the PSPO. Details of the consultation that has been carried out are set out in paragraph 6 of this report.

- 3.5 The council's 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.

4 WORKFORCE IMPLICATIONS

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

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None

6 CONSULTATION AND COMMUNICATION

- 6.1 In line with the legislation, the Police District Commander, Office of the Police and Crime Commissioner, Hampshire and Isle of Wight Constabulary, were consulted. Hampshire County Council has been notified of the proposal.
- 6.2 A survey was launched between 2 June 2023 and 24 August 2023 and sent to statutory and non statutory partners who work within the current PSPO area to seek their views, organisational experience and working knowledge of the PSPO. Key partners included members of Winchester Town Forum, Police Alcohol Licensing Officer, Hampshire and Isle Of Wight Constabulary, University of Winchester, Winchester City Council Licensing Manager, Winchester City Council Service Lead (Housing and Social Inclusion), Winchester Bid Rangers, The Winchester Beacon, Trinity Winchester, Winchester Street Pastors, Winchester Cathedral, Winchester City Council Estates Team, Winchester City Council CCTV. Winchester City Council Natural Environment Team who manage the affected open spaces were also consulted.
- 6.3 It was not practicable to consult all owners and occupiers of land in the area. However major owners of open space in the area were consulted.
- 6.4 Partner responses showed an overall majority in favour of extending the current PSPO by 3 years as proposed with no objections to the proposed extension (see Appendix 1).
- 6.5 CCTV data is obtained on a monthly basis which supports the monitoring process in relation to the PSPO area.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 The Public Space Protection Order promotes a positive and safe environment for those using open spaces, without fear of witnessing alcohol fuelled anti-social behaviour.

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

7.3 Anecdotally, there is a correlation between alcohol associated anti-social behaviour and detritus found within the same locations e.g. cans/glass bottles. Managing alcohol fuelled anti-social behaviour and dealing with the littering issues in public places, helps to improve the environment for others who are visiting, working or living in Winchester. There are six statutory partners responsible for leading the delivery of priority actions within Winchester Community Safety Partnership (CSP), all have a duty (Crime & Disorder Act 1998) to ensure there are joint working arrangements in place to reduce crime and disorder across the district. The CSP consists of Winchester City Council, Hampshire and Isle of Wight Constabulary, Hampshire and Isle of Wight Fire & Rescue Service, Hampshire Clinical Commissioning Group, Hampshire County Council, National Probation Service (South Central).

8 PUBLIC SECTOR EQUALITY DUTY

8.1 Government guidance is clear as to when the powers should be utilised and the PSPO only comes into force if complaints are received from others who feel alarmed, harassed or distressed within the alcohol control zone.

8.2 An Equality Impact Assessment can be found at appendix 3. The only adverse impact identified would be those who are alcohol dependent. However, any confiscation of alcohol is supported by signposting to relevant services.

9 DATA PROTECTION IMPACT ASSESSMENT

9.1 None

10 RISK MANAGEMENT

Risk	Mitigation	Opportunities
Financial Exposure	N/A	N/A
Exposure to challenge	Ensure that the council has properly followed the legal requirements for consultation and publicity when extending a PSPO	N/A
Innovation	N/A	N/A
Reputation - Partnership working. Hampshire and Isle of Wight Constabulary are keen for the PSPO to continue in	PSPO made and in place until 2026	Relaunch of the current PSPO provides additional public education and acts as a reminder to partners about the use of powers

its current guise. Allowing the current PSPO to expire may impact on the credibility of the partnership		available them.
Achievement of outcome	PSPO in place until 2026	Further publicise the importance of the PSPO/ACZ
Property	None	None
Community Support normally managed by Bid Rangers and Police.	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.
Timescales - To meet the legislation requirement the PSPO must be extended before 15 th September 2023.	Report being presented to Licensing and Regulation Committee 5 th September 2023	Wider publication of the order on web-site, Social media and local publications/newspapers and site notices.
Project capacity	None	None
Other	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 1)
- 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.
- 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 15 September 2023.

- 11.4 Under s72 of the Anti-Social Behaviour, Crime and Policing Act 2014 there is a requirement to consult, publicise and notify before the PSPO 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 15 September 2023.
- 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 and Isle of Wight Constabulary data showed public order offences that carry arrest power. It showed that in the period between 01.10.2020 – 31.05.2023 Winchester saw a total of **70** public order offences in relation to alcohol, drink and drugs. To date our records show that **2** FPN's were issued for non-compliance which would imply that current early interventions are working (see Appendix 1)
- 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 PSPOs 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 Although the legislation allows the powers within the PSPO to be widened, the current data does not support using the powers for anything other than alcohol related ASB.

Next steps

- Subject to approval of this proposal, publication of the PSPO renewal will take place in the form of notices within the affected area, on the council's web-site and by the use of social media.
- The new PSPO must be in place no later than 15 September 2023.

12 **OTHER OPTIONS CONSIDERED AND REJECTED**

- 12.1 The option of not renewing the PSPO was rejected, as the evidence in this report and the feedback from the consultation showed that the consultees fully support the renewal of the PSPO which is considered to be a valuable tool in tackling alcohol fuelled anti-social behaviour.

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>

Equality Impact Assessment

http://sharepoint/sites/builtenvironment/_layouts/15/DocIdRedir.aspx?ID=F5F755R7T2VE-1300910264-1344

APPENDICES:

Appendix 1. PSPO Report 2023

Appendix 2. Alcohol Exclusion Designated Order 2020

Appendix 3. Equality Impact Assessment