

Public Document Pack



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15 October 2020

Dear Councillor

NOTICE OF DELEGATED DECISION – (DD11 20) EXTENSION OF PUBLIC SPACES PROTECTION ORDER

Please find attached details of a decision taken by Mr Brinley Hill, Head of Community and Digital Services, to extend the Public Spaces Protection Order for three years with effect from 20 October 2020.

As a non-Key Officer Decision, call-in does not apply (paragraph 18(a) of Part 4 (Rules of Procedure) of the Constitution).

Members of the public who require further information are asked to contact Kate Batty-Smith on 01304 872303 or by e-mail at democraticservices@dover.gov.uk.

Yours sincerely

A handwritten signature in cursive script that reads "Kate Batty - Smith". Below the signature is a short horizontal line.

Democratic Services Officer

ENCL

1 **NOTICE OF DELEGATED DECISION - (DD11 20) EXTENSION OF PUBLIC SPACES PROTECTION ORDER** (Pages 2-12)

Decision Notice

Delegated Decision

Decision No:	DD11
Subject:	EXTENSION OF PUBLIC SPACES PROTECTION ORDER
Notification Date:	15 October 2020
Implementation Date:	20 October 2020
Decision taken by:	Brinley Hill, Head of Community and Digital Services
Delegated Authority:	Delegation C200 (Delegations to the Head of Community and Digital Services) of Section 6 (Scheme of Officer Delegations) of Part 3 of the Constitution: 'To exercise the powers and functions of the Council under these parts of the Anti-Social Behaviour Crime and Policing Act 2014.'
Decision Type:	Executive Non-Key Decision
Call-In to Apply?	No (<i>Call-in does not apply to non-Key Officer Decisions</i>)
Classification:	Unrestricted
Reason for the Decision:	The current Public Spaces Protection Order (PSPO) is due to expire on 20 October 2020 and a decision is required regarding its renewal.
Decision:	To extend the Alcohol Public Spaces Protection Order for a period of three years with effect from 20 October 2020 in accordance with the powers contained within Section 60 of the Anti-Social Behaviour Crime and Policing Act 2014.

1. Consideration and Summary

The failure to have a valid PSPO in place will have an impact on Dover District Council and Kent Police having the ability to deal with anti-social drinking in the District. This may as a consequence have a detrimental effect on the public perception of both the Local Authority and Kent Police and moreover the district as a whole.

2. Introduction and Background

Both the Police and the Local Authority are responsible for tackling anti-social behaviour. Designated Public Places Orders (DPPOs), which previously controlled drinking in public places since 2011, were replaced with a Public Space Protection Order (PSPO) in 2016, and that Order now requires a review to extend the duration of the order.

The Dover District Community Safety Partnership considers that the current PSPO has been an effective deterrent to alcohol related crime and anti-social behaviour since it was made.

The existing PSPO came into force on 20 October 2017, across designated Public Places in the Dover District, as a tool to deal with alcohol related anti-social behaviour.

In accordance with s.60 of the Act, a PSPO cannot have effect for more than 3 years, unless extended under s.60(2). This section permits a local authority to extend a PSPO where it is satisfied on reasonable grounds that doing so is necessary to prevent an occurrence or recurrence of the activities identified in the Order or to prevent an increase in the frequency or seriousness of those activities. Appendices 1, 2 and 3 contain both quantitative data and qualitative information supplied by Kent Police to highlight the impact that the PSPO currently in place has and the justifications required to extend the current order for a further 3 years to prevent an occurrence or recurrence of the activities identified in the Order.

The introduction of the Order has enabled the police to remove alcohol from those that are committing or may commit anti-social behaviour.

The Order may also be varied within this 3-year period.

3. **Key Facts**

The PSPO was introduced under the Anti-Social Behaviour, Crime and Policing Act 2014 as a provision for local authorities to address anti-social behaviour in public spaces.

The PSPO does not make it illegal to carry alcohol or to drink alcohol in a public place so long as drinking is done responsibly. A PSPO will only be used to tackle potential alcohol related anti-social behaviour. Under these circumstances Police and Council Officers (where designated) will have the power to stop people drinking alcohol and seize or confiscate alcohol within the controlled area. If a member of the public fails to comply with an officer's request to stop drinking and/or dispose of alcohol, they could face a Fixed Penalty Notice (FPN) or being taken to court and receiving a fine on conviction of up to level 2 on the standard scale (currently £500). Enforcement will be primarily carried out by Kent Police and they will arrest on breach should it be required.

A PSPO cannot be used to restrict the consumption of alcohol where the premises or its curtilage (a beer garden or pavement seating area) is licensed for the supply of alcohol. There are also limitations where either Part 5 of the Licensing Act 2003 or section 115E of the Highways Act 1980 applies. This is because the licensing system already includes safeguards against premises becoming centres for anti-social behaviour.

The results of a multi-agency tabletop review with key stakeholders, including Kent Police have been compiled in this report and appendices. From this review, Kent Police data showed that:

58 Public order offences were reported between (Jan 2019 – Jan 2020), in comparison between (Jan 2020 – 7th Oct 2020) this number had reduced to 29 reports for the same offence. In the same time period, the number of reports had dropped from 181 (between Jan 2019 – Jan 2020) to 137 (between Jan 2020 – 7th October 2020).

The data supports the feedback from frontline Police Officers as evidenced in Appendices 2 and 3 that the restrictions on drinking continues to be a deterrent and an effective tool, contributing to reduced alcohol related crime and anti-social behaviour. For these reasons it is recommended that the current PSPO be extended. Signage has been in place since October 2017, this would not need to change.

4. **Outline plans for the extension of the current PSPO (alcohol)**

As of 20 October 2020, the order will apply to the following:

Any persons who refuse to stop drinking alcohol or to hand over any containers (sealed or unsealed) which are believed to contain alcohol when required to do so by an

authorised officer or Police Officer you will be committing an offence as outlined in the previously agreed areas within the Dover District highlighted in appendix 4.

This order shall **not** apply to:

- (a) premises authorised by a premises licence to be used for the supply of alcohol
- (b) premises authorised by a club premises certificate to be used by the club for the supply of alcohol
- (c) a place within the curtilage of premises within paragraph (a) or (b)
- (d) premises which by virtue of Part 5 of the Licensing Act 2003 may at the relevant time be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the 30 minutes before that time
- (e) a place where facilities or activities relating to the sale or consumption of alcohol are at the relevant time permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (highway-related uses)

Penalty on breach of the order:

Any person guilty of breaching an order will be liable to a fine not exceeding £500. Depending on the behaviour in question, an authorised officer could decide that a fixed penalty notice of £75 would be the most appropriate sanction. PSPOs may be enforced by Police Officers, PCSOs or any officers designated by Dover District Council.

5. **Resource Implications**

There are no additional resource allocations for Dover District Council.

6. **Financial Implications**

None. Signage is already in place and enforcement is carried out by Kent Police and authorised DDC officers.

There is no cost to affixing the notices as the current notices in place are not time limited. Furthermore, there are no additional officer costs to enforce the PSPO.

Should the PSPO not be extended there will be a cost to remove the current signage prohibiting street drinking.

Annual income generated from fixed penalty notices for breach of the PSPO will also need to be considered.

7. **Environment Implications**

None.

8. **Data Protection Implications**

There are no data protection implications as a result of this report or PSPO.

9. **Legal Implications**

The 2014 Act provides the Council with power to make PSPOs in the areas where a nuisance or problem occurs which is detrimental to local community's quality of life, by imposing conditions on the use of those areas. 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 it is reasonable and proportionate for the restrictions.

S60 of The Act sets out the requirements in order to extend a PSPO. It states that a PSPO has effect for not more than three years and may be extended in order to prevent (a) Occurrence or recurrence after that time of the activities identified in the order, or (b) An increase in the frequency or seriousness of those activities after that time.

Furthermore, in accordance with the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 (SI 2014/2591), when a local authority has made, extended or varied a PSPO, that local authority must publish the order and erect notices publicising the fact that an Order has been made and the effect that it has.

The council will need to evidence that it has given regard to The Human Rights Act 1998. The rights and freedoms provided for in the Human Rights Act are qualified rights which means they can lawfully be restricted providing it is a proportionate and necessary means of achieving a legitimate aim. In considering the Human Rights Act the council must balance the rights and freedoms of individuals, in relation to the proposed restrictions imposed, against the needs of the wider community.

10. Equality Implications

The implementation and policing of the PSPO will be in accordance with the Equality Act 2010. There will be no discriminatory policing of this proposed order in line with our Public Sector Equality Duty.

The Public Sector Equality Duty, as set out in section 149 of the Equality Act 2010, requires the Council, when exercising its functions, to have “due regard” to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, to advance equality of opportunity and foster good relations between those who have a “protected characteristic” and those who do not share that protected characteristic. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

Consideration must also be given how these restrictions regarding extending the proposed PSPO might impact adversely on those persons with protected characteristics as set out in the Equalities Act 2010 and whether there should be any mitigated actions proposed in relation to any potential adverse impacts of such proposals.

An Equality Impact Assessment has been carried out around the PSPO enforcement since the order was enacted. A summary of those findings shows an overrepresentation of males issued warnings and notices. There are challenges in obtaining data around race, sexual orientation, or religious belief and there are current plans in progress to mitigate this by developing more joined up enforcement structures between the council and police.

11. Any Other Implications (HR, Property, Environmental Sustainability)

None.

12. Corporate Implications

12.1 Comment from the Section 151 Officer: “Accountancy have been consulted on the financial matters in this report and have no further comments to add. (LS)”

12.2 Comment from the Solicitor to the Council: The Head of Governance has been consulted during the preparation of this report and has no further comment to make. (LM)

12.3 Comment from the Equalities Officer (KS): This report does not specifically highlight any equality implications, however in discharging their duties members are required to comply with the public sector equality duty as set out in Section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

13. Any Conflicts of Interest Declared

None.

14. Appendices

Appendix 1 – Calls to Dover Town Centre – beat code ZD16

Appendix 2 – PSPO Impact Statement – PC 10525

Appendix 3 – PSPO Impact Statement – Insp McCormack

Appendix 4 – map of previously agreed designated areas.

Contact Officer: Shaun Taylor, Community Services Manager

Calls to Dover town centre – beat code ZD16

Sir

As per your request, please find below the statistics from calls received by Kent Police relating to incidents occurring in the Dover town centre area. These figures have been drawn from Storm research but have not been additionally vetted to highlight only those that can be tangibly linked to the issue of street drinking.

The illustration shows the number of calls to the specific beat code – ZD16 for the period between Jan 1st 2019 to Jan 1st 2020 and from Jan 1st 2020 to date (7th Oct 2020).

Call Type	Jan 01/2019 to Jan 01/2020	Jan 01/2020 to 7th Oct 2020
Vagrancy	9	9
Assault	181	137
Indecent Exposure	2	4
Robbery	14	6
Theft	114	77
Damage	41	38
Public Order	58	29
Drugs	16	5
Nuisance	83	90*

NB – The increase in nuisance calls is as a direct result of Covid related incidents.

Obviously we still have two and a half months of the year to see out but the highlighted figures (unvetted of course) do tend to support our assertion that early intervention and disruption with street drinkers utilising the PSPO legislation could be having a discernible impact as the reduction evident is quite significant bearing in mind that Cheryl and I have only been united since January and I was only in post for the second half of 2019.

If you would like me to have a more detailed look at the locations and times of these incidents please let me know.

Kind regards and respects as always.

James



**Kent
Police**

Protecting and serving the people of Kent

**Dover Community Safety Unit
Dover Police Station, Ladywell
Kent CT16 1DJ**

**PC 10525 James Chenery
Town Beat Officer**

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E-mail: james.chenery@kent.police.uk

Date: 7th Oct 2020

Ref: Dover District PSPO

Dear sir or madam

The purpose of this statement is to provide a brief synopsis of the negative impacts caused in Dover town centre by street drinking and how these issues can be simply and efficiently controlled with minimum impact on police and local authority resources by using powers conferred in the Public Spaces Protection Order, due to expire on the 20th October 2020.

I am one of two constables dedicated to policing the Dover town centre community. I came into post in May 2019 taking ownership of a ward that had been without a dedicated police presence for a number of years. This was the first time I had worked in a public facing function in the Dover district since 2011 and I was immediately struck by the levels of street drinking and the petty crime and disorder that such activities generated. A significant proportion of the local business owners and residents cited street drinking and associated anti-social behaviour as one of the key issues impacting the town centre.

Drawing on my experiences of the past sixteen months I can attest that a substantial proportion of the criminal activity impacting the town centre revolves around this street drinking community. Theft offences, often of fragrance, toiletries and food stuffs was commonplace, the community itself forming a market place for stolen goods to be traded, often quite openly. Drug dealing and consumption was also rife. In my opinion it was clear that disrupting the drinking community could in turn bring the associated criminality under control.

During the first few months in post we fought daily battles with a nucleus of approximately 20 to 30 chronic street drinkers. One small group would gather daily on the benches outside Lloyds Bank in the Market Square where they would play loud music and consume high strength cider and beer. This is a "focal point" public space and is often the first area that tourists, whose importance to the local economy is obvious, find as they make their way into the town centre. This group of drinkers would commonly make their way through the town during the course of the day, stopping in the churchyard of St Mary's Church, Pencester Gardens and often ending up on public benches in the pedestrianised area of Biggin Street. They routinely used the streets and alleyways as toilets, left litter in public areas and would also become progressively louder and more unruly as their level of intoxication increased.

Another much larger group meet on a daily basis in an area of Pencester Gardens known locally as "the pit". This is a small sheltered paved area just inside the entrance of the gardens off Pencester

This is available in
large print on request

Road adjacent to the bus station, another key arrival and meeting point for visitors to the town centre. With lots of seating (benches and low walls) and the protection of tall trees and street furniture this area has, in my experience, proved a magnet for street drinkers, drug users and petty thieves throughout my career. Pencester Gardens itself is also a popular and busy green space with the riverside walk, skate park and childrens play area.

It is my experience that the gathering of these subjects coupled with their alcohol consumption is often a pre-cursor to more significant criminal activity if left unchecked. We have found that if we disrupt them before they take root for want of a better phrase, we can often mitigate and even prevent other more serious offences from occurring later in the day.

There are a number of other groups of street drinkers who congregate in the town centre, Pencester Gardens and on the sea front whose behaviour does not routinely result in substantial criminal activity but none-the-less generates anti-social behaviour issues. These alone can be difficult to combat as they don't often reach the threshold required to justify or necessitate arrest.

Over the course of the past sixteen months my colleague and I have made numerous arrests for public order and other offences linked directly to drunken and disorderly behaviour. We have issued two Community Protection Notices for repeated disorderly conduct and criminal activity linked to drunkenness. We have reported one persistent offender for breach of the PSPO and arrested the same subject for drunkenness, theft and public order offences on three separate occasions. We have made countless arrests for petty theft offences that have been perpetrated by intoxicated street drinkers as they make their way home through the town.

I have been on duty and witnessed first hand how quickly public disorder linked to drunkenness can spiral out of control. The incident I refer to occurred on a warm and sunny Sunday afternoon in the mid summer at approximately 1600hrs in Pencester Gardens and Pencester Road. It involved three of the persistent drinkers who congregate in "the pit" and a group of young females. A dispute erupted between the females and two intoxicated young males which led to larger groups of youths forming and a running battle ensuing between the two groups which spilled into the bus station. Three of the drinkers were assaulted and required medical assistance. One intoxicated young female was arrested and others dispersed. The incident took substabtical police resources to quell, not to mention NHS ambulance staff who had to tend to the injured.

For many of the persistent street drinkers, congregating in the aforementioned public spaces and consuming alcohol together is routine. It is their "normal". They openly tell us that they're not going to stop just because it's illegal and this is evidenced by the fact that despite years of enforcement and disruption by police they remain a fixture. The PSPO hasn't solved this issue but it has provided us with the means by which to control it and in so doing significantly reduce the impact of their activities.

Having the ability to require the surrender of their alcohol is a powerful diruption tactic. Having the ability to seize unopened containers also adds to this as it stops the individuals stocking up in advance. By seizing and disposing of their alcohol in full view we are able to demonstrate to the public that we are acting which builds greater public confidence in us. It is also hugely impactive on the drinkers who see their money being poured away. They tend not to challenge us or our PCSO colleagues because they know it will result in their arrest. In the case of two of our more problematic offenders, Community Protection Notices have been used to good effect. This disruption activity, which I should add we and our PCSO colleagues engage in on a daily basis, enables us to break the groups down and effectively disperse them without the need to escalate our enforcement activity and therefore draw vital resources away from the street. This is enfocement at the base level and it is hugely effective.

It also enables us to control and mitigate the levels of linked crimminality and we have seen a noticeable reduction in petty theft and drug related incidents in the town centre over the past year

as a result of our combined efforts. The feedback we are receiving from the community itself is positive and complimentary. Together we are building a stronger, more resilient community spirit and this is vital to the continued commercial viability, success and regeneration of the town centre.

I am concerned about the the looming expiration of the current PSPO on the 20th October 2020 primarily because we will lose by far the most utilised and effective tool available to us in our efforts to combat anti-social behaviour and criminality linked to street drinking. As I have tried to descibe above, this legislation provides us with so much more than just the power to require the surrender of alcohol. We believe that the continuation of the restrictions on street drinking are necessary and proportionate based on our experiences and the anecdotal feedback we often receive from the town centre community.

Submitted for your deliberation with respect

Yours sincerely

PC 10525 James Chenery
Town Beat Officer
Dover Community Safety Unit
Kent Police



**Kent
Police**

Protecting and serving the people of Kent

**Inspector Fred McCormack
Dover Community Safety Unit
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Date: 07/10/20

Ref:

Dear Sir or Madam,

I work as the Community Safety Unit Inspector for Kent Police and my area of responsibility is Dover District. I am a member of the Community Safety Partnership Executive and have been a police officer for 29 years.

The mission of the Community Safety Partnership is to build Safer and Stronger Communities. A key part of this work will require the extension of the Public Space Protection Order for Dover Town which is due to expire on the 20th October 2020.

In 2019 the Police and Crime Commissioner used an increase in the Council Tax precept to fund additional town centre PCs in Kent. As a result, Dover Town Centre was allocated two full time Town Centre PCs. The work of these officers has been fundamental in reducing crime and anti-social behaviour whilst improving the general amenity of the area. Feedback from the Town Centre PCs and the 10 Police and Community Support Officers who regularly patrol Dover Town is that the PSPO is an invaluable tool that allows them to keep on top of problems relating to street drinking. The reductions we have witnessed across all crime types and ASB over the last 12 months is testament to this work.

On behalf of Kent Police I wish to put on record my complete support of an extension to the PSPO and would be happy to assist in any way to achieve this.

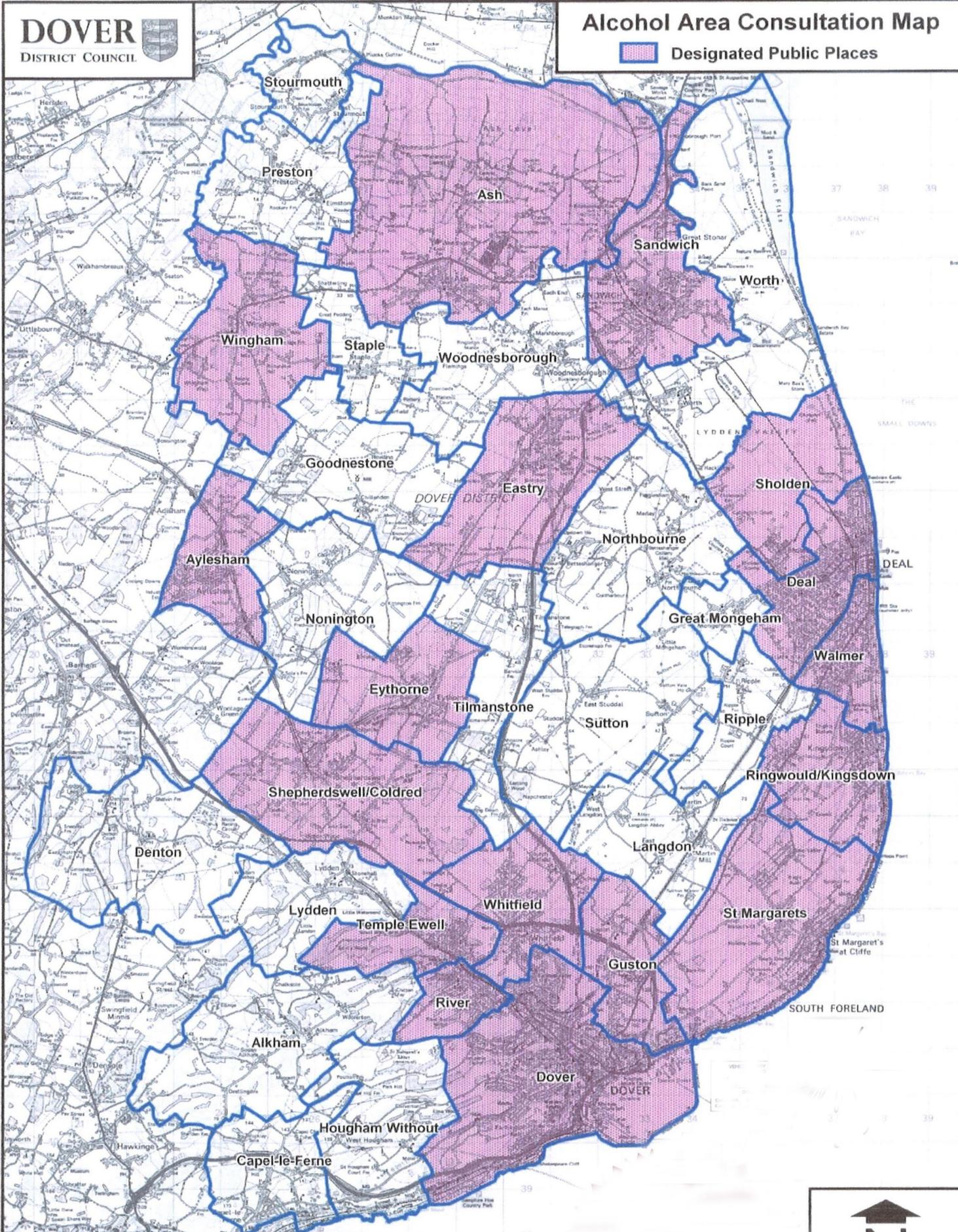
Yours sincerely

Insp Fred McCormack

This is available ¹¹in
large print on request



 Designated Public Places



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