

Decision Notice

Delegated Decision

Decision No:	DD11
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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.
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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.
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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