

KEY DECISION: YES

**INTRODUCTION OF A PUBLIC SPACE PROTECTION ORDER IN
ALDERSHOT TOWN CENTRE**

SUMMARY AND RECOMMENDATIONS:

The Antisocial Behaviour, Crime and Policing Act 2014 makes provision for the introduction of Public Space Protection Orders (PSPOs) within a local authority area. PSPOs allow local authorities to make an order covering a specific area in response to issues affecting the community. PSPOs can be used to prohibit specific activities or require people to do certain things.

The council are seeking to introduce a PSPO in Aldershot Town Centre to assist in managing ongoing antisocial behaviour related to the consumption of alcohol in a public place and other associated behaviours, including public urination and defecation.

Cabinet is recommended to approve

1. The implementation of a PSPO and proposed conditions in Aldershot Town Centre
2. The agreed fixed penalty notice for breach of the PSPO being set at £100 with an early payment discount of £25.

1. INTRODUCTION

- 1.1. This report recommends the implementation of a new PSPO to address antisocial behaviour concerns in Aldershot Town Centre and the nearby Municipal Gardens. Data from several sources between 2020 – 2022 provides the evidence base for the need and the result of consultation confirms the community agree that it is necessary.
- 1.2. This is a key decision as the proposed PSPO area covers Wellington, Rowhill and Manor Park wards.

2. BACKGROUND

- 2.1. The Antisocial Behaviour, Crime and Policing Act 2014 introduced simpler, more effective powers to tackle antisocial behaviour that provides better

protection for victims and communities. This includes the introduction of PSPOs to control individuals or groups that are engaging in activities which have a detrimental effect on others.

- 2.2. Aldershot Town Centre has been experiencing street based antisocial behaviour for a number of years, often centred around the Victoria Road area near The George public house and Ozone restaurant. The antisocial behaviour is committed by a large and often transient group of individuals who chose to spend their time-consuming alcohol during the day and gathering in groups. In addition to alcohol, they are believed to be using drugs; the consequent behaviour is rowdy and inconsiderate and has a detrimental effect on the wider community.
- 2.3. A consequence of this is that there are significant reports of negative behaviours which have a detrimental effect on others using the space including intimidating behaviour, abuse of members of the public, violence, begging, shoplifting and public urination/defecation. Both businesses and members of the public regularly report their concerns to Police and the Council and have also provided statements detailing the behaviours and effects it has had on them.
- 2.4. A PSPO was previously in force from 2017 – 2020. A decision was made to not renew it during 2020 due to a lack of evidence demonstrating its enforcement and impact. Other tools and powers (see 3.18) have also been utilised by the council since the original PSPO lapsed, but it is felt that in order to complement this approach and have a wider and longer lasting effect that a new PSPO is proportionate.
- 2.5. The proposed PSPO aims to specifically tackle the key causes of antisocial behaviour in the town centre in order to deal with some of the reported ongoing issues. There is commitment from both Police and Council officers regarding the orders enforcement and any subsequent legal action that may be required should individuals choose not to comply with the order.
- 2.6. The introduction of a PSPO in Aldershot Town Centre will complement the council business plan in terms of Aldershot Town Centre regeneration and ensuring that we look to ensure our towns are “family-friendly, safe, vibrant and sustainable places...”.
- 2.7. PSPOs must be reviewed every three years with a decision based on evidence whether to renew, vary or remove the order. The PSPO will expire after three years if not renewed, varied or removed beforehand. The area that the PSPO covers will also be reviewed to ensure that it is necessary and proportionate.
- 2.8. Further details of the evidence and impact of the behaviours can be found in the statement attached in **Confidential Appendix 1**.

3. DETAILS OF THE PROPOSAL

General

- 3.1. A PSPO can be made by the council if they are satisfied on reasonable grounds that the activities carried out, in a public space:
 1. Have had, or are likely to have, a detrimental effect on the quality of life of those in the locality
 2. Are, or are likely to be persistent or continuing in nature
 3. Are, or are likely to be, unreasonable and
 4. That this detrimental effect justifies the restrictions imposed
- 3.2. The council have liaised with police to ensure controls proposed are necessary and that the geographical area covered is proportionate.
- 3.3. The proposed conditions of the PSPO are as follows:
 1. Failing to comply with a direction not to consume, in breach of this order, alcohol, or anything which an Authorised Officer reasonably believes to be alcohol where the Authorised Officer reasonably believes that a person has engaged in antisocial behaviour
 2. Failing to surrender a container of alcohol which an authorised officer reasonably believes to contain alcohol (whether open or not) when asked to do so by an Authorised Officer
 3. Urinating or defecating other than when making use of facilities designed for such use
- 3.4. The draft PSPO order is attached as **Appendix 2**.
- 3.5. The above conditions are proposed having reviewed available evidence including police statistics, CCTV logs from the Rushmoor CCTV Control Room and statements given by members of the public, businesses, and local Councillors. This evidence has been collected over a substantial period from 2020 up to the present day and satisfies the test as described above at 3.1. The evidence shows continuing incidents and a detrimental impact on the quality of life for those who frequent the area.
- 3.6. Failure to comply with the above conditions would result in Authorised Officer issues a fixed penalty notice. It is proposed that the penalty for failure to comply is set at £100 with an early payment reduction to £75. This reduction acknowledges early payment, but also reflects the impact the behaviours concerned have on the wider community. It is hoped that these set financial penalties will act as a deterrent. FPNs can be issued at the authorised officer's discretion if the individual does not comply with their request. Each situation is different and professional judgement will be used

by authorised officers to determine the most suitable way of dealing with each incident.

- 3.7. Other approaches will include education, engagement and support and incidents can be used as evidence for other interventions, such as Community Protection Notices (CPN) or Criminal Behaviour Orders (CBO). This order is not designed to target those who are street attached and fines will only be issued where negative behaviours are evidenced and issuing of an FPN is deemed necessary and proportionate.
- 3.8. In the context of the PSPO, an Authorised Officer would be considered a Police Constable and a Rushmoor Borough Council authorised Council Officer. Officers would be issued fixed penalty notice pads to carry with them when on patrol. Hampshire Constabulary are currently reviewing the process to authorise Police Community Support Officers to issue a fixed penalty notice under Public Space Protection Orders.
- 3.9. The proposed PSPO would not have any effect on licensed premises, nor any the usual running of council run events. It is important to note that this does not impact those who wish to use open spaces to consume alcohol responsibly, for instance, as part of a family picnic. It is to tackle those whose behaviour has a detrimental and negative impact on the feeling of safety of those who live, work in, and visit the area. A person would be in breach of the order if they are (or had been) consuming alcohol AND choose to engage in anti-social behaviour, drinking alcohol (without any anti-social behaviour) would not breach the order.
- 3.10. There are regulations which relate to the way in which the proposed PSPO should be publicised. A copy of the PSPO will be put in the Council's website. In addition, the regulations require signs to be placed on or adjacent to the public places affected by the PSPO. Signage will be erected in places where the PSPO applies detailing the conditions and letting people know where they can find out more information. Signage would be erected at main entrances to the area covered, and at key locations within. A map of the proposed area is attached as **Appendix 3**.

Alternative Options

- 3.11. Officers have looked at all of the available options before deciding to recommend the introduction of a PSPO. A full options analysis setting out the potential enforcement (and other) options was carried out and is attached as **Appendix 4**.
- 3.12. Other tools and powers have been used to tackle the issues raised, including Community Protection Warnings and Notices. Given the large number of individuals in the group and the fact that members of the group often change it is difficult and time consuming to target individuals on a longer-term basis, this prolongs the impact on the wider community. Where individuals are issued an FPN on a repeat basis the council will explore alternatives to tackle their behaviour in the long term.

- 3.13. It is deemed that a PSPO will assist in giving the council and Police further powers to tackle the root cause of many of the issues. Individuals who continue to cause issues will be case managed to explore longer-term interventions which may include diversionary support or enforcement.

Consultation

- 3.14. Public consultation on the proposed draft PSPO was completed between 7th February 2022 and 21st March 2022. 358 people completed the consultation with overwhelming support for the measures outlined. 94% of respondents support the proposed condition on alcohol consumption and 93% of respondents support the proposed condition around public urination/defecation.
- 3.15. Of 346 respondents to complete the question, 276 (80%) indicated they had witnessed antisocial behaviour in Aldershot Town Centre in the last year, with 70 respondents (20%) indicating they had not. The most common type of antisocial behaviour witnessed was litter (84%, n222), followed by verbal abuse and noise (78%, n207) followed by public urination (47%, n125). Of those that answered "other" the main types of antisocial behaviour stated included drug use and dealing, street drinking and drunk people, begging and dog mess. When asked whether respondents believed antisocial behaviour witnessed was a result of street drinking, 77% (n203) of those who answered the question agreed that it was. Respondents felt that the antisocial behaviour witnessed in the town centre had a persistent and detrimental effect on their quality of life (66%, n175).
- 3.16. 76% (n245) of respondents agreed with the proposed geographical area of the PSPO, however many respondents felt that the area should be extended further to include either the whole of the town, or specific areas such as Manor Park. The proposed geographical area is based on evidence collated relating to specific issues in the town centre, including statements, police data and CCTV logs. Extension of the area proposed would not be possible due to a lack of supporting evidence of a similar issue in the wider area. Incidences of antisocial behaviour are monitored on a regular basis by both council and Police with consideration for the use of appropriate tools and powers kept under regular review.
- 3.17. A copy of the public survey and consultation report is attached as **Appendix 5**.
- 3.18. Introduction of a PSPO also requires consultation with key partners. All partners consulted expressed their support for the proposed PSPO. Consultees included the local Chief Inspector of Police, Police and Crime Commissioner, Hampshire County Council as the Highways Authority, Army, Aldershot Civic Society and Homegroup as a local service provider. Other relevant consultees who a response was not received from includes Society of St. James and Inclusion. Both partners provide services to individuals who are considered to be part of the group causing antisocial

behaviour. Members were sent a letter summarising the proposal as well as a link to the public consultation.

- 3.19. The draft PSPO which was consulted on has subsequently been amended to reflect s.63(2)(b) of the Antisocial Behaviour, Crime and Policing Act 2014.

4. IMPLICATIONS (of proposed course of action)

Risks

Legal Implications

- 4.1. The power and requirements for making a PSPO are set out within Part 4 of Chapter 2 of the Act and is supplemented by the Anti-social Behaviour Crime and Policing Act 2014 (Publication of Public Space Protection Orders) Regulations 2014 and statutory guidance issued by the Secretary of State.
- 4.2. The basic requirements for making a PSPO are set out in the body of this report, in particular, the need to be satisfied on reasonable grounds that the two statutory conditions in Section 59 of the Act.
- 4.3. In deciding whether to make a PSPO and, if so, what restrictions should be included, by Section 72 of the Act, the Council must have particular regard to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms 1950 ("the Convention"). The restrictions imposed by the proposed PSPO are not considered to engage these Articles and are considered compatible with rights under the Convention. In the event however that the Articles are considered to be engaged, it is considered that the restrictions are permitted by paragraphs (2) of both those Articles. This is on the basis that the restrictions on those rights imposed by the PSPO are lawful, necessary and proportionate. This conclusion is reached given the nature of the restrictions, their imposition in accordance with the relevant statutory provisions and Guidance and having regard to the evidence and detrimental affect the behaviours concerned is having or is likely to have on those who use the areas.
- 4.4. Under Section 66 of the Act any challenge to the validity of a PSPO must be made in the High Court by an interested person within six weeks of it being made. The order will be treated as having been "made" on the day when the Council approves it (namely the date of this meeting). The Council can choose to nominate a different (later) date from which the PSPO will have effect.
- 4.5. An interested person is an individual who lives in, or regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the power to challenge. The PSPO can be challenged on two grounds:

1. That the Council did not have power to make the order, or to include particular prohibitions or requirements imposed, or
 2. That the procedural requirements for making the PSPO (e.g. consultation) were not complied with
- 4.6. On any application to the High Court challenging the validity of an Order the Court may suspend its operation or any of the prohibitions or requirements imposed by it until the final determination of the proceedings. If the Court is satisfied the Council did not have the power to make the PSPO, or it did but the Council failed to comply with the procedural requirements and, the applicant has been substantially prejudiced by that failure, it may quash the order, or any of the prohibitions or requirements imposed by it.
- 4.7. All proposals to make, vary or discharge PSPOs, regardless of the method of authorisation will be made in accordance with the statutory provisions and guidance.

Financial and Resource Implications

- 4.8. The proposal includes fine limits for failure to comply with a PSPO being set at the statutory maximum of £100. Those who receive a Fixed Penalty Notice must make payment within 14 days of the notice being issued. If paid within 10 days, the fine amount is reduced to £75.
- 4.9. Signage and FPN documentation will be required however costs are anticipated to be met from existing revenue budgets.

Equalities Impact Implications

- 4.10. Public authorities have a Public Sector Equalities Duty under the Equality Act 2010 to consider and address equality issues in all their functions, insofar as is relevant and proportionate. An Equality Impact Assessment has been undertaken to consider the impact of the proposed Public Space Protection Order on the protected characteristics groups and its implications for the Public Sector Equality Duty. This assessment concluded that the order would be generally positive for all protected characteristic groups.
- 4.11. Those who are alcohol dependant or have other identified issues will be signposted to appropriate support agencies, if not already engaged with them. The consultation for this proposal has been made accessible to all key stakeholders, and groups, as well as statutory consultees
- 4.12. A copy of the Equality Impact Assessment is attached as **Appendix 6**.

Other

- 4.13. There may be a risk to council staff enforcing the PSPO. The council's Community Patrol Officers are equipped with appropriate Personal Protection Equipment. They are trained in conflict management and will take a proportionate approach to PSPO related activity. A full risk assessment will be completed in relation to this activity.
- 4.14. Other officers authorised to enforce the PSPO will include Police. A full briefing will be provided to all authorised officers to raise awareness of the PSPO and how we intend to manage it, ensuring consistency across both the council and Police. We will maintain regular communication with Police partners and ensure they are kept up to date of any developments or changes.
- 4.15. The PSPO may raise expectations from the local community including businesses, residents, and visitors that the behaviours concerned will be eliminated completely. It will be important through the council Communication team to promote the order, what the restrictions mean and what impact residents can expect to see.
- 4.16. Activity related to the PSPO will be recorded by Police on their record management system, allowing for review and analysis to be undertaken. Within the council, activity will be recorded on relevant council systems.

5. CONCLUSIONS

- 5.1. The information and evidence available to the council, in addition to responses from the public and stakeholder consultation demonstrate a need and support for a new PSPO. The evidence in favour of the order has remained consistent, including during the pandemic.
- 5.2. The order makes it clear to perpetrators and residents/businesses that the behaviour exhibited is not acceptable and that the council and Police are prepared to tackle it. The order will also complement the ongoing regeneration work in Aldershot Town Centre.
- 5.3. The proposed order also has the support of the Operational Services Portfolio Holder, and Leader of the council.
- 5.4. It is therefore recommended that Cabinet approve:
 1. The implementation of a PSPO and proposed conditions in Aldershot Town Centre
 2. The agreed fixed penalty notice for breach of the PSPO being set at £100 with an early payment discount of £25

BACKGROUND DOCUMENTS:

Appendix 1 – Statement on need for PSPO (CONFIDENTIAL)

Appendix 2 – Draft Order

Appendix 3 – Map

Appendix 4 – Options Assessment

Appendix 5 – Survey and Consultation Report

Appendix 6 – Equality Impact Assessment

CONTACT DETAILS:

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