

## AGENDA ITEM No. 5

CABINET

HEAD OF ENVIRONMENTAL HEALTH AND HOUSING

2<sup>nd</sup> May 2017

KEY DECISION: NO

REPORT NO. EHH1717

### ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 – DRAFT PUBLIC SPACES PROTECTION ORDERS

#### **SUMMARY AND RECOMMENDATION:**

The Anti-social Behaviour, Crime and Policing Act 2014 introduced a number of new powers to deal with community protection and makes provision for both Community Protection Notices and Public Spaces Protection Orders (PSPOs).

PSPOs replace a number of existing orders including Designated Public Place Orders (DPPOs), Gating Orders and Dog Control Orders and are intended to streamline arrangements for dealing with a variety of types of anti-social behaviour.

The Act provides transitional arrangements for current orders to remain in place for three years following the commencement of the Act. These transitional arrangements end on the 19<sup>th</sup> October 2017 and we are therefore looking to introduce PSPOs to control a range of anti-social behaviour we are currently experiencing in our town centres.

There are also provisions in the Act in relation to existing DPPOs, which are still in force and were made before October 2014 to convert to PSPOs. To avoid duplication of controls, we are recommending that these DPPOs be discharged when they convert to PSPOs in October. A separate process would apply at that time.

The Act provides guidance on the process for introducing PSPOs and in accordance with this a period of consultation has been completed. This report provides feedback from the consultation on draft PSPOs for both Farnborough and Aldershot town centres.

We are therefore seeking Member approval of the PSPO orders

If approved the PSPO will be subject to ratification by the Police and PCC, then a six week period to allow for appeals. At this point the PSPO's will become active on the nominated date.

## **1 BACKGROUND**

- 1.1. The Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) introduced simpler, more effective powers to tackle anti-social behaviour that provides better protection for victims and communities.
- 1.2. This includes the introduction of Public Spaces Protection Orders (PSPOs) to control individuals or groups committing anti-social behaviour in a public space.
- 1.3. The proposed PSPOs, one for Farnborough and the second for Aldershot town centres, include restrictions to control a wider range of anti-social behaviour and are in response to the problems we are currently experiencing. The PSPOs will supersede and existing orders including the DPPO covering the restricted areas.
- 1.4. There are no other Orders in place affected by these changes.

## **2. PSPOs**

- 2.1 Government guidance on the procedures has been followed.
- 2.2 This included ensuring that the behaviour being restricted passed 'the test' as outlined below:

A PSPO can be made by the council if they are satisfied on reasonable grounds that the activities carried out or likely to be carried out, in a public space:

- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality
- is, or is likely to be persistent or continuing in nature
- is, or is likely to be, unreasonable: and
- justifies the restrictions imposed.

- 2.3 We have worked closely with the police to ensure that the controls and areas covered are necessary and proportionate.

- 2.4 The restrictions proposed cover:

- Drinking in a Public Place
- Use of Psychoactive Substances in a Public Place
- Urinating and Defecating in a Public Place
- Loitering in a Public Place
- Loitering with intent to beg in a Public Place

*Public Place under section 74(1) of the Act means any place to which the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.*

- 2.5 The PSPOs for both Aldershot and Farnborough are attached.
- 2.6 The Police are content as is the PCC from whom we await an official reply. Hampshire County Council as the Highways Authority have been consulted but no reply received.
- 2.7 Public consultation was completed between 27<sup>th</sup> February and 27<sup>th</sup> March as advised by Cabinet.
- 2.8 225 people completed the consultation within the time period. The majority of respondents identified themselves as shoppers and patrons of restaurants, cinemas/Theatre in the Town Centre.
- 2.9 Support for the conditions proposed was as follows:
- Control drinking of alcohol 97.3%
  - Control taking of NPSs 97.3%
  - Control of urinating and defecating 98.2%
  - Control of loitering causing nuisance 94.9%
  - Control of loitering with intent to beg 90.4%
- 2.10 Where concerns were raised in relation to the control of drinking alcohol, the main theme of the comments alluded to the fact that drinking in public is not in itself an offence.
- 2.10 There were 15 comments made regarding the control of urinating and defecating in public spaces. There included:
- Not enough accessible public toilet
- 2.11 Comments received in relation to loitering and causing nuisance totalled 10 and were all concerned with the definition of loitering.
- 2.12 19 comments relating to loitering with the intent to beg were received as follows:
- Issues of fining beggars
  - Begging is not always a problem
- 2.13 In conclusion, the mandatory consultation has been completed, the consultation was advertised and distributed widely and received very strong support for the measures with respondents being from a good cross section of our community.

- 2.14 There is a requirement to publicise the PSPOs in accordance with regulations published by the Secretary of State. There is no duty to advertise in local newspapers. We are therefore planning to publicise the PSPOs through the Council website.
- 2.10 The Council will be required to erect, on or adjacent to the land in relation to which the PSPOs have been made, such notice(or notices) sufficient to draw the attention of any member of the public using the land to:
- The fact that the PSPO has been made and
  - The effect of the Order
- 2.11 Any challenge to the PSPO must be made in the High Court, by an interested person, within six weeks of it being made. If a challenge is made, the High Court can suspend the PSPO pending the verdict in part, or in totality. The High Court has the ability to uphold the PSPO, quash or vary it. This does not preclude others (such as national bodies) from seeking Judicial Review.

#### **4. THE FUTURE**

- 4.1 The maximum duration of a PSPO is three years. It is recommended that the PSPOs be in place for this period subject to any challenge.
- 4.2 There is provision that allows councils to extend PSPOs by up to a further three years if they consider that it is necessary to prevent the original behaviour from occurring or recurring.
- 4.3 If new issues arise within the area where a PSPO is in force we may vary the terms of the Order at any time providing that we follow the procedures as set out in statutory guidance.
- 4.4 It is an offence for a person, without reasonable excuse to:
- Do anything that is prohibited by a PSPO or
  - Fail to comply with a requirement imposed under a PSPO
- 4.5 Breaches may result in the service of a Fixed Penalty Notice (FPN); failure to pay the FPN may result in prosecution.
- 4.6 It is proposed that officers authorised to enforce these restrictions will include both police and council officers, and it is likely that we will be required to work closely with the police to help to ensure appropriate controls.
- 4.7 Council Officers identified to enforce these orders will need to have delegated authority from the Chief Executive Officer at Rushmoor Borough Council.

## **5. IMPLICATIONS**

### **Legal Implications**

- 5.1 PSPOs are subject to challenge through the High Court or Judicial Review and this may have both financial and reputational implications for the Borough.
- 5.2 The powers will only be used when the restrictions imposed by the order are breached.
- 5.3 In addition, the use of FPNs may result in an increased burden on our Legal services where any FPN remains unpaid. In the event that it is assumed an inability to pay a fine exists individuals can be served with a summons to appear before a court. Obviously, this will have financial implications for Legal Services in the preparation of Court papers.
- 5.4 Individuals who refuse to comply with the restrictions of the order may need to be made subject of a Civil Injunction, which would also require resourcing. The Council will continue with measures already in place to support and assist vulnerable individuals.

### **Financial and Resource Implications**

- 5.5 Any costs associated with this work will be identified and set aside, recognising that this is a key priority for the council. The costs of providing signage has been established and appropriate funds identified in the Community Safety budget for Rushmoor Borough Council.

### **Equalities Impact Implications**

- 5.6 Careful consideration must be given to ensure that vulnerable groups and individuals are not targeted unfairly as a result of the introduction of PSPOs.

## **6. CONCLUSIONS AND RECOMMENDATIONS**

- 6.1 Current data evidences that Rushmoor Borough Council is not experiencing the same problems that led to the introduction of the DPPOs, it is however, important that we respond to current and ongoing problems in our town Centres. These issues are reflected in the restrictions imposed under the PSPOs.
- 6.2 The findings of the PSPO Consultation have been presented at Borough Services who support the introduction of PSPOs in both Farnborough and Aldershot Town Centres.
- 6.3 We are therefore seeking Member approval for the PSPOs as detailed.

- 6.4 At the point of approval, the PSPOs will be subject to ratification by the Police and PCC. The Council will publicise the order on the RBC website with immediate effect and detailing a enforcement\ date of Tuesday July 13<sup>th</sup> 2017. Following publication, interested people have a six week period in which to appeal the order (through the High Court).

**QAMER YASIN**  
**HEAD OF ENVIRONMENTAL HEALTH AND HOUSING**

**PETER AMIES**  
**HEAD OF COMMUNITY AND ENVIRONMENTAL SERVICES**

**Appendices:**

Appendix 1: PSPO- Aldershot

Appendix 2: PSPO – Farnborough

**BACKGROUND DOCUMENTS:**

Anti-Social Behaviour, Crime and Policing Act 2014- Cabinet report EHH 1417

Anti-Social Behaviour, Crime and Policing Act 2014

Anti-Social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers. Statutory Guidance for frontline professionals (July 2014)

Anti-Social Behaviour, Crime and Policing Act 2014(Publication of PSPOs Regulations 2014)

**CONTACT DETAILS:**

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DRAFT

RUSHMOOR BOROUGH COUNCIL

THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

PUBLIC SPACES PROTECTION ORDER (ALDERSHOT) 2017

This Order may be cited as the **Rushmoor Borough Council Public Spaces Protection Order (Aldershot) 2017**.

Rushmoor Borough Council (“the Council”) in exercise of its powers under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) and under all other enabling powers, hereby makes the following Order.

1. This Order shall come into operation on ----- 2017 and shall have effect for 3 years thereafter unless extended by further orders under the Council’s statutory powers.
2. The Order relates to all public places in that part of Aldershot shown edged red on the attached plan (“the Restricted Area”).
3. The Council is satisfied that the conditions set out in Section 59(2) of the Act have been met. Namely that anti-social behaviour and criminal activities have been carried out within the Exclusion Zone through the use of intoxicating substances and begging. These activities have a detrimental effect on the quality of life of those in the locality, and it is likely that these activities will be carried out within that area and have such an effect.
4. The Council is also satisfied that the conditions set out in Section 59(3) of the Act have been met. Namely, that the effect or likely effect of the activities is, or is likely to be, of a persistent or continuing nature and that these activities are unreasonable and justify the restrictions imposed by this Order and that it is in all the circumstances expedient to make this Order for the purpose of reducing crime and/or anti-social behaviour in a public place.

BY THIS ORDER

**Prohibitions**

The activities described below are hereby prohibited:

1. Persons shall not within the Restricted Area
  - a. continue to drink alcohol: when asked to stop by an authorised person or
  - b. fail to surrender any alcohol in their possession when asked to do so by an authorised person.
2. Persons shall not within the Restricted Area:
  - a. continue to ingest, inhale, inject, smoke or otherwise use psychoactive substances when asked by an authorised person to stop or
  - b. fail to surrender any psychoactive substance in their possession, when asked to do so by an authorised person.
    - Psychoactive Substance is given the following definition (which includes Drugs and what are commonly referred to as ‘legal highs’): Substances with the capacity to stimulate or depress the central nervous system.
    - Exemptions shall apply in cases where the substances are used for a valid and demonstrable medicinal use, are cigarettes (tobacco) or vaporisers or are food stuffs regulated by food health and safety legislation.

- Person or persons within the Restricted Area who breach this prohibition shall surrender psychoactive substances in his/her possession to an authorised person.
- An authorised person could be a Police Constable, Police Community Support Officer, Council Officer or any other person authorised by the Council.

3. Persons within the restricted area will not loiter, behaving in such a manner as to cause harassment, alarm or distress to another person

4. Persons within the restricted area will not sit or loiter in a public space with the intention of or actively begging.

5. Persons within the restricted area shall not urinate or defecate in a street or public open space

### **Fixed Penalty Notice and Offences**

1. It is an offence for a person without reasonable excuse to engage in any activity prohibited by this Order.

2. In accordance with section 63 of the Act, a person found to be in breach of this Order by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a fine not exceeding level 2 on the standard scale which is currently £500

3. In accordance with section 67 of the Act, a person found to be in breach of this Order other than by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a fine not exceeding level 3 on the standard scale which is currently £1000.

4. An authorised person may issue a Fixed Penalty Notice to anyone he or she believes has committed an offence. The amount of the fixed penalty shall be £100. The penalty can be reduced by 50% if paid within **14 days otherwise the full penalty will be due**. If you pay the Penalty within **29 days** you will not be prosecuted.

THE COMMON SEAL of }  
 RUSHMOOR BOROUGH COUNCIL }  
 Was hereunto affixed this ---day of ----}  
 In the presence of: }

Solicitor to the Council









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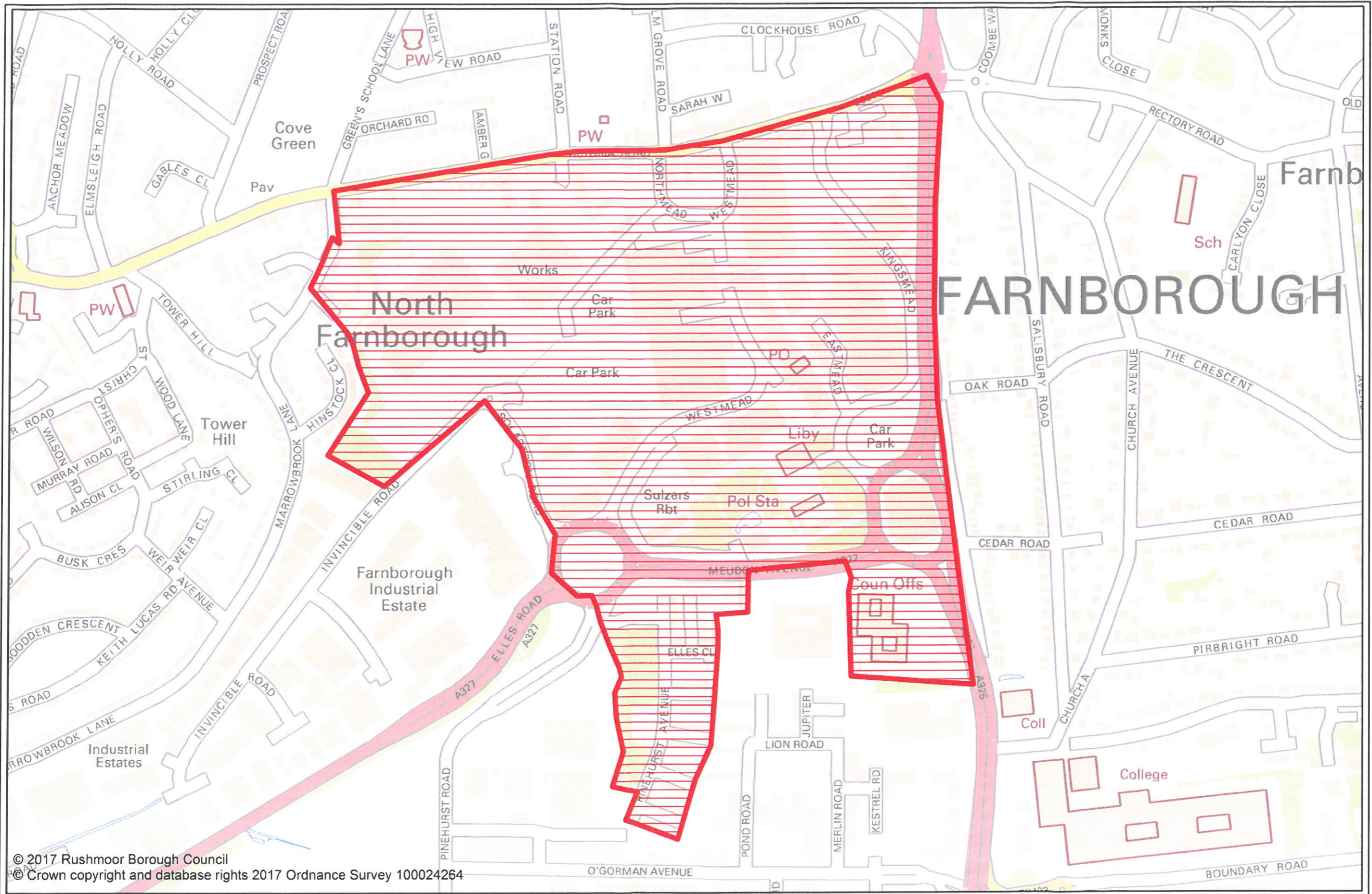
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## Public Spaces Protection Order: Farnborough