

Part I

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WELWYN HATFIELD BOROUGH COUNCIL

CABINET – 9 JULY 2024

REPORT OF THE EXECUTIVE DIRECTOR (RESIDENT SERVICES AND CLIMATE CHANGE)

APPROVAL OF A PUBLIC SPACES PROTECTION ORDER (PSPO) FOR HIGHVIEW, HATFIELD

1 Executive Summary

- 1.1 The report recommends the approval of a PSPO for the Highview area in Hatfield. This is justified by data of anti-social behaviour (ASB) and the detrimental impact it is having on this location and is also supported by respondents to the public consultation and their feedback.
- 1.2 The area has been experiencing anti-social behaviour associated with:
- Begging and associated ASB
 - ASB in public places caused by consumption of alcohol
 - Littering which is linked to the consumption of alcohol
 - Urinating and defecating in public
- 1.3 On 6 February 2024 Cabinet authorised a statutory public consultation which ran from 7 February to 14 March 2024 to seek views from residents and key stakeholders, as detailed in paragraph 3.15-3.16 of this report.
- 1.4 The consultation attracted 74 respondents in total. Local residents made up the majority of responses with a small number of local businesses and traders taking part.
- 1.5 The majority of respondents thought that street drinking, begging, littering and public urination/defecation were having a detrimental effect on the local area.
- 1.6 Over 98% of respondents were in support of the implementation of a PSPO in the area.
- 1.7 The majority of respondents said they would like the PSPO in Highview to be introduced for a period of three years.
- 1.8 The majority of respondents said that the proposed PSPO area was just right.
- 1.9 The need for a PSPO is also positively supported by the Community Safety Partnership and the Police.
- 1.10 A redacted version (of personal/sensitive data redacted) of the public consultation responses is shown at Appendix A and B.

2 Recommendation(s)

- 2.1 That Cabinet notes the evidence of the ongoing anti-social behaviour and its impact on the location and note the results of the public consultation which supports the introduction of a PSPO.

- 2.2 That Cabinet approves the introduction of a PSPO within the proposed area for a period of 3 years commencing on 31 July 2024 as in Appendix C.

3 Explanation

Background

- 3.1 A PSPO is one of the provisions available within the Anti-social Behaviour, Crime and Policing Act 2014, Sections 59 to 75, intended to deal with activities causing anti-social behaviour that have a detrimental effect on the quality of life of those in its locality. PSPO's are flexible and can be applied to deal with a broad range of issues, with local authorities having the ability to impose conditions on the use of that area which apply to everybody. These conditions should focus on specific behaviours that affect the users of that area and be proportionate and necessary to prevent such behaviours from continuing or reoccurring.
- 3.2 Before making a PSPO, Local authorities must be satisfied on reasonable grounds that the behaviour which is carried out, or is likely to be carried out in a public space:
- has had, or is likely to have, a detrimental effect on the quality of life of those in the locality, and that the effect;
 - is, or is likely to be, persistent or continuing in nature; such that
 - it is, or is likely to be, unreasonable; and
 - justifies the restrictions imposed.
- 3.3 The Highview area in Hatfield (as shown in the map at Appendix C) is experiencing anti-social behaviour associated with:
- a) Begging and associated ASB
 - b) ASB in public places caused by consumption of alcohol
 - c) Littering which is linked to the consumption of alcohol
 - d) Urinating and defecating in public
- 3.4 Despite our commitment and approach above to help and support individuals who are begging or street drinking, often these individuals refuse to engage with services, leaving us with limited powers or options to encourage them to disengage with the anti-social behaviours they are displaying.
- 3.5 The Council have a maintained commitment to supporting individuals who are vulnerable and are struggling with homelessness, financial issues or substance misuse. Support and assistance for homelessness are part of the ReStart Rough Sleeper Project as well as focus on outreach, accommodation and move on into longer term settled accommodation. ReStart is commissioned by the Council Housing Options Service and works alongside other charities including Herts Young Homeless, Druglink, CGL and OneYMCA to support those without accommodation.
- 3.6 The local Community Safety Partnership is also committed to supporting those with complex needs via signposting support into local drug and alcohol support services such as Resolve and CGL. Support is also offered to those with mental health and substance misuse (dual diagnosis) via the Community Support Service which is a commissioned service delivered by Herts Mind Network.
- 3.7 Some of the individuals who are causing this ASB are also known by the police and the council's Anti-Social Behaviour Team to beg the public for money and drink alcohol in

the area. Reports relating to these people have increased, which include reports of drug use, needle finds, verbal abuse to residents, urination and defecation in a public place, with residents feeling generally unsafe in the local area as a result.

- 3.8 As a Community Safety Partnership, we are keen to ensure that vulnerable people are safeguarded appropriately and receive support as necessary. Where an individual is identified in breach of the PSPO and has clear vulnerabilities and complex needs we will ensure they are approached with support and advice in the first instance.
- 3.9 The requirements for a PSPO have been met based on evidence gathered by Hertfordshire Constabulary and the Council and evidence from local businesses, residents, police recorded crime and ASB statistics. Police records show that when comparing the same period May 2022 - May 2023 to May 2023 - May 2024, there has been a 22% increase in nuisance ASB in the location. Nuisance ASB includes incidents where an act, condition, thing or person causes trouble, annoyance, inconvenience, offence or suffering to the local community. This is the category that the related ASB to those begging and street drinking fall into.

Public Consultation

- 3.10 In response to these ASB issues in Highview, approval was sought from Cabinet to undertake a public consultation on a proposed PSPO of a designated areas in the town centre, including the following prohibitions:

Person(s) within this area will not:

- Consume alcohol in a public place.
 - Be in possession of an open vessel(s) of alcohol in a public place.
 - Approach another person either verbally or through actions to beg from the other person.
 - Loiter at or within ten metres of any pay machine (including banks, supermarkets and car parks) unless waiting legitimately to use the machine for the purpose it is designed for.
 - Sit on the ground in a public place, street, highway or passage in a manner that may be perceived that you are inviting people to give you money.
 - Urinate or defecate in a public place.
 - Not to discard litter or waste anywhere within the designated area unless in an appropriate receptacle (bin), including abandoning/leaving behind such items as follows: bottles, cans, food, paper, chewing gum, cigarette butts, drug paraphernalia.
- 3.11 A public consultation proposing the introduction of a Public Spaces Protection Order for Highview was undertaken between 7 February – 14 March 2024 and sought opinions from key stakeholders, as detailed in paragraphs 3.12-3.13.
- 3.12 Under section 72 of the Act, we are required to consult with the following:
- chief police officer of police, and the local policing body for the local area that includes the restricted area
 - landowners or occupiers within the affected area
 - any community representatives that the local authority feels appropriate

3.13 We consulted with the following:

- Chief Constable of Herts Police
- Police and Crime Commissioners Office
- Hertfordshire County Council
- Borough councillors
- Welwyn Hatfield Community Safety Partnership
- Local businesses
- Local residents
- Local schools
- Visitors to the area

3.14 The online survey consultation was made available on the council's website for local residents, visitors and businesses to complete. Paper copies of the survey were available on request. Letters and emails were sent to the above consultees making them aware of the consultation and inviting them to participate. The consultation was also promoted via our website, a press release, social media and flyer handouts.

3.15 There were 74 respondents (45 respondents via the online Survey Monkey and 29 by post). The respondents were made up of 93% residents, 7% local workers or businesses.

3.16 Over 98% of respondents supported the implementation of a PSPO, of which over 67% agreed the proposed area was about right. Other areas which were suggested included further coverage along Bishops Rise and Downs Road. Consideration has been made to include these areas however officers agreed that the target area should remain around High View shops where the issues are occurring.

3.17 Within the proposed designated area, we asked respondents to consider whether they agreed if the following was of concern:

- Street drinking: 87% felt it was, with 72% seeing it on daily basis.
- Begging: 66% felt it was, with over 52% had seen it on a daily basis.
- Littering: 99% felt it was, with 95% had seen it on a daily basis.
- Public urination/defecation: 58% felt it, with 36% had seen this on a daily basis.

3.18 Over 89% of respondents said that they would like the PSPO to be introduced for three years.

3.19 A redacted version of the public consultation responses is shown at Appendix A and B. (personal/sensitive data redacted).

3.20 The need for a PSPO is also positively supported by the Community Safety Partnership and the Police.

3.21 We are keen to ensure that vulnerable people are safeguarded appropriately and receive support as necessary. Where an individual is identified in breach of the PSPO and has clear vulnerabilities and complex needs we will ensure they are approached with support and advice in the first instance.

Approval of the PSPO

- 3.22 The report recommends the approval of a PSPO for Highview in Hatfield which is justified by evidence of ASB that is continuing, unreasonable and is having a detrimental impact on this location as outlined in paragraphs 3.4 – 3.9. The approval of a PSPO is also strongly supported by respondents to the public consultation as outlined in paragraphs 3.18-3.22 and in Appendix A and Appendix B.
- 3.23 The draft Public Spaces Protection Order is recommended for approval (Appendix C).
- 3.24 In deciding if the local authority should make a PSPO the local authority must:-
- a) have particular regard for the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights (“ECHR”);
 - b) take account of the consultation responses
- 3.25 Article 10 of the European Convention on Human Rights (ECHR) relates to freedom of expression. Article 11 of the ECHR relates to freedom of assembly and association. Whilst a PSPO may interfere with the rights granted under Articles 10-11 of the ECHR, careful consideration needs to be given so that prohibitions and requirements under a PSPO do not unnecessarily interfere with what would otherwise be legitimate under the law. Local authorities must show that they have tried to use less restrictive methods to address the issues under the PSPO. In essence it is a balancing exercise between the competing interests of the individual, other individuals and the community at large.
- 3.26 Due to the complexity and vulnerability that often presents with begging and street drinking, the PSPO is just one tool that is used to tackle these issues. The default position is to offer support and engagement options with enforcement action being the last consideration when preventative methods have failed. Prevention is delivered via the councils Rough Sleeper Protocol for those who may be begging and homeless and comprises of three key elements;
- Outreach – this service responds to reports of rough sleepers made by the public or colleagues in partner organisations. The aim is to get individuals off the streets and into suitable accommodation.
 - Accommodation – provision is given to individuals whilst ‘Navigators’ carry out assessments and work with them to determine what help is needed.
 - Navigator service – case workers who assist individuals with the causes of homelessness, aid access to health services, access to drug and alcohol services, benefit claims and immigration status.
- 3.27 The overall aim is to move people from rough sleeping and begging to settled, stable and suitable accommodation. The service is commissioned by the council as part of the Homeless Prevention Strategy and is provided by ReStart. ReStart is operated by the charity Resolve who also operate their own drug and alcohol service and are located within both Welwyn Garden city and Hatfield Town Centre, so in a prime location to respond.

Implementation of the PSPO

- 3.28 If the PSPO is approved, in accordance with the provisions under 72 of the Act, we will publicise the PSPO by placing it on our website and issuing a press release. We will also arrange to erect signage in the designated area to ensure that persons are aware of the PSPO. With regards to the requirement to notify proposed authorities, we will ensure that we notify Hertfordshire County Council.

- 3.29 If the PSPO is approved, it will be a criminal offence to breach a condition of a PSPO and penalties on breach are;
- a) Issuing a warning.
 - b) Issuing a Fixed Penalty Notice (FPN) of £100
 - c) Prosecution through the courts for persistent offenders (liable to a fine of up to £1000 upon summary conviction)
- 3.30 If approved following public consultation, the PSPO is enforceable by the Police, and authorised Street Wardens and ASB Officers. Implementation and enforcement of the PSPO will be included in the Community Safety Partnership action plan and will primarily be enforced by police officers and PCSOs without the need for additional resources. The PSPO allows for officers to use the powers where they witness someone in breach of the prohibitions within the defined area. A protocol will be agreed with the Police regarding enforcement.
- 3.31 As explained, enforcement activity in the area will be primarily delivered via the Police with the main reporting mechanism for breaches of the PSPO being a call to 101. Supplementary activity and enforcement is provided by the council's Street Wardens and ASB Teams, through officers carrying out their normal duties.
- 3.32 Visibility and enforcement of the PSPO is supplemented by the ASB Team co-ordinating days or weeks of action in response to emerging issues. This would lead to additional patrols in partnership with the Police and the Street Wardens.
- 3.33 In terms of monitoring, activity concerning the PSPO will be logged on SafetyNet, a Police led multi-agency case management software so that partners have oversight and can share information on persons breaching the PSPO.
- 3.34 In some circumstances it is deemed not appropriate to issue an FPN due to the vulnerability of those breaching the PSPO and those individuals will be supported or signposted for assistance.

Implications

4 Legal Implication(s)

- 4.1 The legal requirements are addressed in the body of the report.
- 4.2 Paragraphs 3.3 – 3.9 explain the evidence to justify the PSPO in accordance with section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 Act, due to antisocial behaviour having a detrimental impact on the quality of life, is persistent or continuing and is unreasonable. This is further supported by the results of the public consultation discussed in paragraphs 3.13-3.22.
- 4.3 The public consultation was undertaken in accordance with section 72 of the Anti-social Behaviour, Crime and Policing Act 2014 Act.
- 4.4 If the PSPO is approved, it will be publicised, and notification made in accordance with section 72 of the Anti-social Behaviour, Crime and Policing Act 2014 Act.
- 4.5 If a PSPO is implemented, it can be challenged by a person who lives or regularly works in the restricted area or visits that area under Section 66 of the Act within six weeks beginning on the date when the PSPO is made on the following grounds:

- That the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied).
- That a requirement under Chapter 2 of Part 4 of the Act was not complied with in relation to the order or the variation (Sections 59-74 of the Act)

5 Financial Implication(s)

- 5.1 Should the PSPO be approved, this must be published in accordance with the regulations made by the Secretary of State and there will be some costs associated with publicising of the PSPO, stationery (FPN booklets) and signage. These costs can be met within existing budgets.
- 5.2 Income from Fixed Penalty Notices (FPN's) is expected to continue to be small and could be used to cover some associated costs of enforcing the PSPO.
- 5.3 Home Office Guidance states that the council is liable for all court action undertaken by way of prosecution against the PSPO. The council has an existing procedure for dealing with the use of FPNs. Any FPN issued as a result of the proposed PSPO will be dealt with in line with this procedure, however it is not anticipated that there will be a large volume of Notices issued.
- 5.4 Enforcement costs under this PSPO will be met within the existing police and council staff. The Anti-Social Behaviour Team will undertake all administration functions with regards to this and will use its existing budget in relation to any enforcement action required.
- 5.5 Any supplementary enforcement or back-office work will form a part of the role of the police and Council's ASB Officers.

6 Risk Management Implications

- 6.1 Legal challenge under section 66 of the Act if the PSPO is made could present a financial and reputational risk to the council and wider Community Safety Partnership (CSP). The legislation states that "interested persons" may challenge the validity of the PSPO within a period of six weeks. The High Court has the power to quash, amend or uphold the PSPO. However, the evidence gathered and the public consultation that was undertaken aims to help mitigate this potential risks.

7 Security and Terrorism Implication(s)

- 7.1 There are no obvious implications arising from this policy.

8 Procurement Implication(s)

- 8.1 There are no procurement implications arising from this policy.

9 Climate Change Implication(s)

There are no climate change implications arising from this policy.

10 Human Resources Implication(s)

- 10.1 The management and enforcement of the PSPO will be resourced through existing staff and resources to cover this new PSPO. The consultation highlights that businesses and

visitors to the Town Centre perceive there to be a lack of patrols and enforcement presence.

11 Health and Wellbeing Implication(s)

11.1 The PSPO provides a platform for the council, the Police and ReStart to engage positively with street drinkers, beggars and homeless persons whose behaviours are impacting the wider community. There is the potential to have a positive impact on a vulnerable cohort that need support and assistance into accommodation pathways and other services.

The PSPO is in place to deal with behaviours that have a detrimental impact on the community. Having a PSPO in place will allow us to challenge and enforce where necessary, which will benefit residents, traders, workers and visitors to the area.

12 Communication and Engagement Implication(s)

12.1 As explained above, there is a requirement to publicise and notify authorities of the implementation of a PSPO. This will include putting the PSPO on our website, issuing a press release, use of social media and erecting signage in the designated area.

13 Link to Corporate Priorities

13.1 The subject of this report is linked to the Strategic Aims:

- a) **Together, create opportunities for our communities** and specifically to the achievement of 'help us feel safe where we live'.

14 Equality and Diversity

14.1 An EqIA was completed in May 2024 (Appendix D) and the EqIA found that there is the potential for negative impacts because the implementation of the PSPO would negatively impact on race because local knowledge suggests that a disproportionate number of people of Eastern Europe communities are those that gather, socialise and often consume alcohol within the PSPO implementation area. However, on balance, it is proportionate and necessary to make the order.

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Appendices:

Appendix A – PSPO Online Consultation Results

Appendix B – PSPO Paper Consultation Results

Appendix C – Proposed PSPO Order and map

Appendix D – EqIA